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REPORT ON POLITICAL PARTICIPATION OF MOBILE EU CITIZENS: LUXEMBOURG

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Report on Political Participation of Mobile EU Citizens

Luxembourg

Sylvain Besch and Denis Scuto^{*}

Abstract:

Resident EU citizens have the right to vote and stand as candidates in local and European Parliament (EP) elections in Luxembourg. Whilst voter registration is automatic for Luxembourgers, non-national EU citizens have to register to vote in local and EP elections. Once they are registered, voting is mandatory as for Luxembourg citizens. Non-resident Luxembourg citizens have the right to vote by post but not to stand as candidates in national and EP elections. Efforts have been made in recent years by national and local authorities and NGOs for resident non-citizens concerning the raising of public awareness, access to information, the language of documents and the registration procedures. The issues linked to non-resident Luxembourg citizens have only begun to be taken into consideration. This report includes a number of recommendations that follow from our analysis of the political participation in Luxembourg of mobile EU citizens.

Résumé:

Les citoyens résidents de l'UE ont le droit de vote et d'éligibilité aux élections locales et au Parlement européen (PE) au Luxembourg. Alors que l'inscription sur les listes électorales est automatique pour les Luxembourgeois, les autres citoyens de l'UE doivent s'inscrire pour voter aux élections locales et européennes. Une fois inscrits, le vote est obligatoire pour eux comme pour les citoyens luxembourgeois. Les citoyens luxembourgeois non-résidents ont le droit de voter par correspondance aux élections nationales et européennes mais ne peuvent se porter candidats. Ces dernières années, les autorités nationales et locales et les ONG se sont efforcées de sensibiliser le public, d'améliorer l'accès à l'information, la langue des documents et les procédures d'enregistrement pour les résidents non-nationaux. Les questions liées aux citoyens luxembourgeois non-résidents commencent seulement à être prises en considération. Ce rapport contient un certain nombre de recommandations qui découlent de notre analyse de la participation politique des citoyens européens mobiles au Luxembourg.

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1. Introduction¹

Resident non-national EU citizens and third-country nationals (henceforth TCNs) have the right to vote and stand for local elections in Luxembourg. But they are not automatically registered in the electoral roll at the age of 18 as Luxembourg citizens are. Foreign residents have to make an application to register. Luxembourg requires that non-national EU citizens must have resided there at least five years before submitting the application to be registered in the electoral roll. A new law of March 8 2018 eased this residency clause for local elections:² only the last year of (five years of) residence in Luxembourg immediately preceding the application for registration on the electoral rolls (for the active electorate) or the submission of the application (for the passive electorate) must be uninterrupted.³

The requirements for EP elections are different for resident non-national EU citizens when it comes to the residence clause. A law of December 20 2013 eased the conditions by abolishing the clause of previous residence existing before this law of 2013 for EP elections (two years for active electorate, five years for passive electorate): non-national EU citizens must reside in the country only at the moment when they request registration on the electoral roll (but this has to occur before the 87th day preceding the elections).⁴ As for local elections, non-national EU citizens are not automatically registered in the electoral roll.

Non-resident citizens have the right to vote by post but not to stand as candidates in national legislative elections and elections for EP elections held in Luxembourg.

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 | NO | NO | YES |
| Non-resident citizens | European Parliament | YES | NO | NO | YES |
| Non-citizen residents | Local Legislative | YES | YES | NO | YES |
| Non-citizen residents | Local Mayoral | NA | NA | NA | NA |
| Non-citizen residents | European Parliament | YES | YES | NO | YES |

¹ The authors would like to thank all the people that gave precious information through interviews and answers to questionnaires about political participation of mobile EU citizens: Sandy Fournelle (OLAI Office luxembourgeois de l'accueil et de l'intégration, Ministry of Family, Integration and Greater Region), Anne Greivelding (Legal Department, Ministry of State), Laurent Hirtz (Service de l'Indigénat, Ministry of Justice), Serge-Arno Klumper (ASTI, Citizens Committee of the ICE We are welcoming Europe – Let us help!), Christoph Schröder (Bureau de liaison du Parlement européen au Luxembourg).

² <http://data.legilux.public.lu/file/eli-etat-leg-loi-2018-03-08-a178-jo-fr-pdf.pdf>

³ The law modifies article 2 of the modified electoral law of February 18 2003.

⁴ <http://legilux.public.lu/eli/etat/leg/loi/2013/12/20/n2/jo>

1.1 Demographic Characteristics of Non-citizen Residents and Non-resident Citizens

Non-citizen residents

Debates on electoral rights have been a major issue over the last three decades in Luxembourg. This is linked to the historical migration context in Luxembourg. After having been an immigration country for a century with 12% foreign residents in 1900, 18% in 1910, 22% in 1930, and 26% in 1981, the last three decades have been characterized by major increases in population, work force and immigration, due to Luxembourg's rapid and steady economic growth since the mid-1980s.⁵ The population grew from 360,000 in 1981 to 602,000 in 2018.⁶ The proportion of non-national residents in the population went from 26% in 1981 to 48% today. In 1985, 70% of resident wage earners were Luxembourgers, whereas the figure fell to 48% in 2018. The number of commuters increased from 22,000 in 1982 to 188,000 in 2018 (or 45% of the active population in employment).⁷ 71 % of Luxembourg's workforce is nowadays made up of foreign residents (26 %) and cross-border workers (45 %) commuting every day (the 'frontaliers' or 'Grenzgänger').⁸

In 2018, according to Statec, among a population of 602,005, 313,777 were Luxembourgers (52.1%) and 288,234 non-nationals (47.9 %).⁹ 148,276 of non-nationals were men (51,5 %), 139,958 were women (48,5 %). 244,400 were non-national EU-citizens (40.6%) and 43,800 were third-country-nationals (henceforth TCNs) (7.3%).¹⁰ Among the non-national EU-citizens, 96,500 are Portuguese, 45,800 are French, 22,000 Italians, 20,200 Belgian and 13,600 German. Concerning their age, 90 % of non-nationals are between 25 and 59 years old. The number of resident EU citizens in Luxembourg has tripled from 85,200 in 1981 to 244,400 in 2018, due to a large part to an increase of Portuguese national residents, from 29,300 in 1981 to 96,500 in 2018, and of French national residents, from 11,900 in 1981 to 45,800 in 2018. In 25 years, the active (working) population (residents and commuters) has more than doubled from 200,000 in 1992 to 432,000 2017.¹¹

Sociologist Fernand Fehlen describes Luxembourg as “a small society in the age of globalization”: “Luxembourg – especially the capital and the south of the country – has become an employment area for an ever larger cross-border region. What distinguishes the Grand Duchy from other European metropolitan areas is the small size of its national territory. It is a microstate without hinterland.”¹²

⁵ Scuto, Denis, *La nationalité luxembourgeoise (XIXe-XXIe siècles). Histoire d'un alliage européen*, Bruxelles, 2012

⁶ https://statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=12853&IF_Language=fr&MainTheme=2&FldrName=1

⁷ https://statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=12951&IF_Language=fr&MainTheme=2&FldrName=3

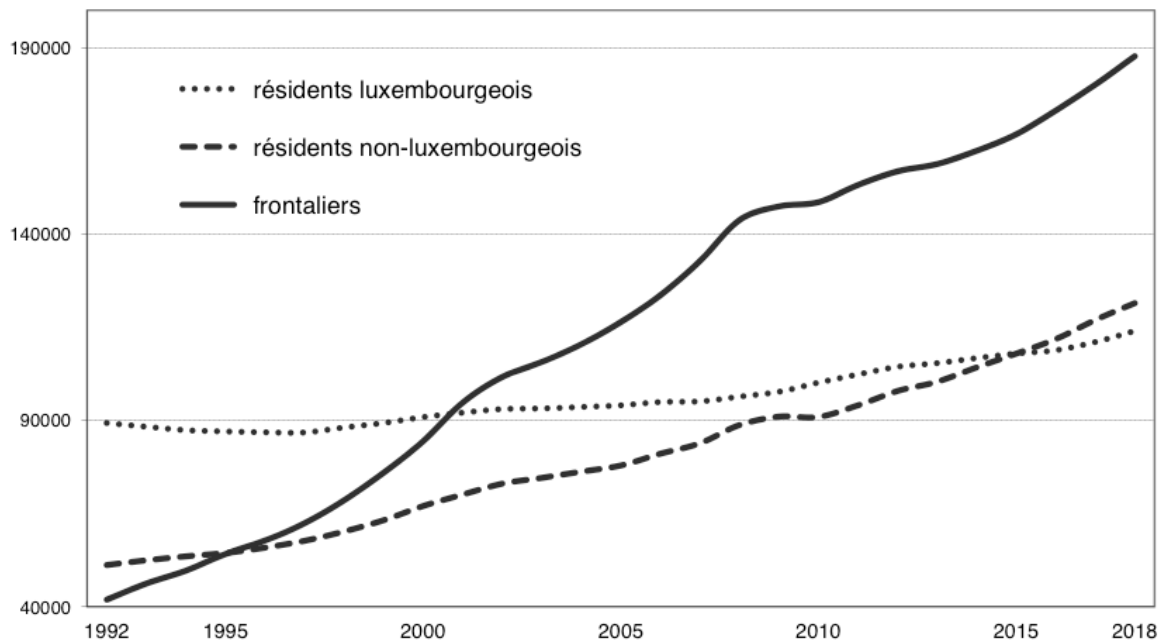
⁸ <http://luxembourg.public.lu/fr/le-grand-duche-se-presente/luxembourg-tour-horizon/population-et-multiculturalite/index.html>

⁹ https://statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=12857&IF_Language=fr&MainTheme=2&FldrName=1

¹⁰ https://statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=12853&IF_Language=fr&MainTheme=2&FldrName=1

¹¹ *L'économie luxembourgeoise au 20^e siècle*, Ouvrage collectif réalisé par le Statec sous la direction de Robert Weides, Luxembourg, p. 220f. ; Statec, *Le Luxembourg en chiffres – 2018*, <https://statistiques.public.lu/catalogue-publications/luxembourg-en-chiffres/2018/luxembourg-chiffres.pdf>

¹² Fehlen, Fernand, *Les Luxembourgeois, les immigrés, les frontaliers et les autres*, in : Forum, n° 390, November 2018, p. 44-45 (translated into English by D. S.)

Figure 1: Employees affiliated to Luxembourg Social Security (1992-2017)¹³

Graph by Fernand Fehlen. Source: STATEC; IGSS

As regards nationality and type of employment, more than half of Luxembourgers and also of citizens of the European Union (with the exception of the Portuguese) are in the highest paid professional categories: directors, managers, intellectual and scientific professions, intermediate professions, administrative employees.¹⁴ More than half of the Portuguese, on the other hand, work in the lowest paid occupations: construction workers, plant and machine operators, assembly workers, skilled industrial and craft trades.

Considering nationality and salary of the residents, Danish workers have the highest median salary at 40,20 euros per hour, followed by Swedish (38,68 euros), Irish (35,11 euros) and British (34,67 euros). Among the UE nationalities with more than 5000 workers, Belgians are ranked at the first place (26,80 euros), followed by Luxembourgers (25,63 euros, high salaries mainly due to high salaries in public service), German (24,92 euros) French (23,85 euros), Italians (19,78 euros) and Portuguese at the end of the scale (14,10 euros). Only Poles (14,08 euros) and Romanions (13,72 euros) are still behind the Portuguese. TCNs can either be found at the top of the scale like Norwegioans, Swisss, Americans, Japanese (35,003 euros) or at the bottom like Brasilians, Kovovars, Montenegrins, Capeverdians.¹⁵

Among 15,956 job seekers (unemployment rate of 5,7 %)¹⁶, 4,742 are Luxembourgers (29,7%), 8,340 (52,3%) are citizens of the European Union, and 2,874 (18,0%) are third country nationals. The most represented nationalities within European citizens are Portuguese: 4,311 a figure that represents 27% of all job seekers, followed by French 1,227 (7,7%), Italian 750 (4,7%), Belgians 495 (3,1), Germans 316 (2%) and Romanians 243 (1,5%).

¹³ Id.

¹⁴ Bulletin du Statec 1, Salaires, emplois et conditions de travail, 2017, p. 33f.

¹⁵ General Inspectorate of Social Security (IGSS), Data, March 31, 2015

¹⁶ Agency for the Development of Employment (ADEM), Data, March 31, 2018.

Non-resident citizens

Luxembourg has a relatively high number of citizens who are usual residents in another EU/EFTA country. It is estimated at 20,000 by Eurostat.¹⁷ It has to be noted, however, that most of these non-resident citizens are in fact Luxembourgish commuters, working in Luxembourg but living in the border regions of Saar and Rheinland-Pfalz (Germany), Lorraine (France) and Wallonie or Province du Luxembourg (Belgium). These residential migrants represent a recent phenomenon, observed since the turn of the millennium. They move the other side of the border mainly because of the price differences for residential property and land existing between Luxembourg (with a steadily growing economy since the 1990s) and the neighbouring regions.¹⁸ It is important to stress that among the residential migrants there are not only Luxembourgers, but also Portuguese, French, Germans, Belgians and people of other nationalities. The statistics of Eurostat are confirmed by the latest results published by Statec, based on the figures of the four neighbouring regions. For 2018, 8,200 Luxembourgers are registered in Rheinland-Pfalz, 4,055 in Sarre, 2,871 in Wallonie. For Lorraine, Statec estimates the number of Luxembourgers approximatively as 4,000, so 19,000 Luxembourgish resident migrants in Greater Region.¹⁹

According to another source, the *Registre national des personnes physiques* (RNPP), the number of Luxembourgish non-resident citizens is much higher and amounts to approximatively 66,000 (half men, half women), with 20,600 living in Belgium, 19,000 in France, 14,500 in Germany, 3,100 in USA, 2,300 in Brazil, 2,100 in Switzerland, 1,000 in UK.²⁰

The difference between the two sources is due to the fact that Eurostat doesn't take into account double or multiple citizenship. Many of the non-residing citizens are in fact new Luxembourgers who acquired Luxembourg citizenship through 're-ethnicising' according to art. 29 of LNL of 2008 and art. 89 of NLNL of 2017: A person can re-acquire Luxembourgish citizenship provided he or she has a male or female ancestor who possessed Luxembourgish citizenship on 1 January 1900. From 2009 to October 2018, more than 20,000 people re-acquired Luxembourg citizenship by this way whilst maintaining their Belgian, French, German nationality.²¹ The top 5 nationalities concerned are: Belgian (9,263 persons), French (7,815), American (1,312), Brazilian (1,121) and German (362), so 19,873 re-acquisitions of Luxembourg citizenship in total from 2009 to October 2018 for persons of these five nationalities. This kind of increase of non-resident citizens with double citizenship will however stop in 2020. According to art. 89 of the NLNL of 2017, no more applications for this re-acquisition can be made after 31 December 2018 and the declaration of re-acquisition must be made before a civil registrar by 31 December 2020 at the latest.²²

¹⁷ EUROSTAT, EU and EFTA citizens who are usual residents in another EU/EFTA country as of 1 January 2017 (migr_pop9ctz), appsso.eurostat.ec.europa.eu

¹⁸ Wille, Christian/Roos, Ursula, "Grenzüberschreitende Lebenswelten an der luxemburgischen Grenze? Eine empirische Annäherung am Beispiel von Grenzpendlern und Wohnmigranten," in: Pallagst, Karina et al. (Hrsg.), *Border Futures - Zukunft Grenze - Avenir Frontière. Zukunftsfähigkeit grenzüberschreitender Zusammenarbeit*, Hannover 2018, S. 168-189

¹⁹ Faktencheck : Lëtzebuurger am Grenzgebitt. <http://www.rtl.lu/letzebuerg/1243240.html>

²⁰ Nombre de Luxembourgeois habitant à l'étranger, <https://data.public.lu/fr/datasets/nombre-de-luxembourgeois-habitant-a-letranger/>

²¹ Statistiques en matière d'indigénat, 2009-2017, http://mj.public.lu/chiffres_cles/index.html#IND; figures for 2018 and top nationalities by courtesy of Laurent Hirtz, Préposé adjoint du Service de l'Indigénat.

²² Scuto, Denis, New Luxembourg Nationality Law came into force on 1 April 2017, <http://globalcit.eu/new-luxembourg-nationality-law-came-into-force-on-april-1/>

1.2 Summary of the Electoral Rights of Non-citizen Residents and Non-resident Citizens

The “right for immigrants to vote” was an issue since the 1970s, advocated not only by NGOs working in the field of immigration²³ but also by the socialist and communist parties, the Diocesan Commission for the Pastoral Care of Migrants (CDPM) and the Economic and Social Council (a tripartite permanent consultative body of the government composed of representatives for employers, workers and government experts). In 1981, the NGO ASTI submitted a statement for signature to the political parties and labour unions. This statement was signed by the main political parties, CSV (Social Christian), LSAP (Social Democrats), DP (Liberal), KPL (Communist Party), and the two major labour unions OGB-L (Socialist) and LCGB (Social Christian). But during the 1980s, both Social Christians and Liberals refused to put the issue on the political agenda, waiting instead for initiatives from the European Community in this direction. Meanwhile a populist right-wing party with a nationalist program had appeared (ADR-Aktiounskomitee fir Demokratie a Rentengerechtegheet) and further politicised this topic.

It was only after a judgment of the European Court of Justice in 1991 that the government decided to give immigrants the right of vote and to make them eligible to run for professional chambers (e.g. Chamber of Workers, Chamber of Employees).²⁴ With regard to local elections it was not until the Maastricht Treaty and EU Council Directive 94/80/EC on local elections that political participation was granted to non-national EU citizens (laws of 13 and 28 December 1995).²⁵ However, the right to vote in local elections was introduced with a system of derogations for Luxembourg, since it is a country whose inhabitants include non-national EU citizens amounting to at least 20% of the population. These derogations pertained to the duration of residency (six years) required to obtain voting rights, granting the passive right to vote (twelve years of previous residence, clause of Luxembourg nationality for mayor and aldermen) and the composition of electoral lists. The first local elections with the participation of non-national EU citizens were held in 1999. Since the law of 18 February 2003, third country nationals can also participate in local elections.²⁶

It was also not until the Maastricht Treaty and EU Council Directive 93/109/EC on EP elections that political participation was granted to non-national EU citizens (law of 28 January 1994).²⁷ For EP elections derogations on the duration of residency (five years) required to obtain voting rights and the composition of electoral lists existed too. The derogations on the passive right to vote in local elections were removed by electoral law of 13 February 2011,²⁸ the derogations on the duration of residency required to obtain voting rights and the composition of electoral lists were modified, but not removed for local

²³ Asti, founded in 1979 (formerly Uniao, founded in 1972) is an NGO based on individual membership, active in the city of Luxembourg and fighting for equal rights for all residents in Luxembourg; Caritas is active in the fields of asylum seekers and refugees; Clae is an organisational platform bringing together roughly a hundred foreigners' organisations, fighting for equal rights and organising a yearly multicultural festival; Sesopi (since 2010 called Cefis) is a catholic research centre and think tank.

²⁴ In 1988 NGO Asti refused to pay the contribution of three of its employees for the professional chambers arguing “no taxation without the right to vote”. This citation of Asti in court triggered a judicial process that led to the affairs Asti 1 and 2 at The European Court of Justice (affaire Commission c/Luxembourg, C-118/92, Rec. 1994, p. I-1891).

²⁵ <http://legilux.public.lu/eli/etat/leg/loi/1995/12/28/n1/jo>

²⁶ <http://legilux.public.lu/eli/etat/leg/loi/2003/02/18/n2/jo>

²⁷ <http://legilux.public.lu/eli/etat/leg/loi/1994/01/28/n1/jo>

²⁸ <http://legilux.public.lu/eli/etat/leg/loi/2011/02/13/n1/jo>

elections whereas the law of December 20 2013 removed the clause of previous residence for EP elections.²⁹

In the 2005 elections, 189 of the candidates (6%) were non-nationals.³⁰ 15% of resident foreigners had registered to vote. In the 2011 local elections, 233 of the candidates (7%) were non-nationals, while 17% of non-nationals had registered to vote.³¹ In the 2017 local elections, 270 of the candidates (7.6%) were foreigners while 22.8% of non-national residents (34,638 persons) registered to vote.³²

A new debate received increased attention after 2012, namely a proposal for a kind of residential citizenship that would grant political participation rights to foreign residents for national elections. This debate is unique to Luxembourg, there being no similar discussions in other EU countries. The demographic and economic evolution of the last three decades in Luxembourg has created a democratically deficient form of political representation: in 2018, only 43% of the resident population had the right to vote in national elections (55% in 1994).³³

Two reform processes were launched therefore in 2013. First, Luxembourg's Minister for Justice, François Biltgen (CSV), wanted to present a revised law to the parliament in 2013 and initiated a debate on the nationality law where not only political parties but also the whole of civil society was invited to participate. Secondly, in January 2013, the proposal of extending voting rights was taken up on the political stage advocating that all residents in Luxembourg should have the right to vote in national elections by 2019.

These two issues had different outcomes. First, A new law on Luxembourgish Nationality was voted in February 2017 at the end of a reform process that started under the former government (composed of CSV, Christian Social Party and LSAP, Socialist Party) and Minister of Justice François Biltgen (CSV), continued and was completed by the new government in place after elections of October 2013 (composed of DP – Democratic Liberal Party, LSAP and Green Party and led by Prime Minister Xavier Bettel of DP) and Minister of Justice Felix Braz (Green Party). Among the main changes, the new law on Luxembourg nationality of 8 March 2017 introduced a conditional *ius soli*, lowered the compulsory residence period before naturalisation from seven to five years, reintroduced optional rights for spouses and children and lowered the conditions of the oral language test in Luxembourgish.³⁴

Secondly, in the first chapter of the 2013 coalition programme of the new Bettel government (the first government without participation of the Christian Social Party (CSV) since 1979), an advisory referendum was announced as part of an ongoing constitutional reform process aiming at a more inclusive democracy. This referendum was held on June 7 2015.

²⁹ <http://legilux.public.lu/eli/etat/leg/loi/2013/12/20/n2/jo>

³⁰ Dubajic, Nenad, Le vote des étrangers au Luxembourg. Evolution de 1999 à 2005, in: *Migrations Société*, XIX, 2007, p. 129-140.

³¹ Source : CEFIS, <http://www.clae.lu/html/m3sm2.html>.

³² CEFIS, Elections communales 2017, Quelques informations et chiffres clés sur les résidents et les élections communales de 2017, Luxembourg, 2018

³³ https://statistiques.public.lu/stat/TableViewer/tableView.aspx?ReportId=13081&IF_Language=fra&MainTheme=3&FldrName=7&RFPPath=106

³⁴ Scuto, Denis, "New Luxembourg Nationality Law Came into Force on 1 April" (European Union Democracy Observatory on Citizenship, April 20, 2017), <http://globalcit.eu/new-luxembourg-nationality-law-came-into-force-on-april-1/>

The Luxembourg citizens were supposed to answer three questions: 1. "Do you approve the idea that Luxembourgers aged between 16 and 18 should have the right to register facultatively on the electoral rolls for the Chamber of Deputies, in the European and local elections as well as in referenda?"; 2. "Do you approve the idea that residents who are not Luxembourgers should have the right to register facultatively on the electoral rolls in view of taking part in the elections for the House of Deputies, on the double condition that they have lived in Luxembourg for at least 10 years and that they have previously taken part in local or European elections in Luxembourg?" and 3. "Do you approve the idea of limiting the maximum, continuous length of time that a person can be a member of government to ten years?"

The campaign was mainly focused on the second question of the extension of voting rights to national elections for foreigners. The moderate opening of the electorate (only 14 % of foreigners would have met the conditions of 10 years previous residence and previous voting for local and EP elections) did not prevent fears rising among Luxembourg citizens of losing parts of national sovereignty and political and economic privileges. These fears were tackled by an informal internet group called Nee2015.lu.

Among political parties, a 'yes' vote to all three questions was supported by the three coalition government partners (DP, LSAP and Déi Greng) as well as The Left (Déi Lénk). The parties of the majority however didn't actively campaign for the 'yes'. A 'no' vote to all questions was endorsed by the right-wing populist ADR and the country's largest political party, the CSV of former Prime Minister Juncker, which said long-time foreign residents should instead seek Luxembourg citizenship and acquire the right to vote in national elections by this way. A Migration & Integration Platform - a citizens' platform that brought together some 20 civil society organisations, including foreigners' associations, campaigned actively for the Yes.

The outcome is well summarised by politologues from the University of Luxembourg's Patrick Dumont and Raphael Kies:

Despite the consultative nature of the referendum, participation was high (87% of registered voters turned out) due to compulsory voting. The outcome was crystal clear: 81% voted against the lowering of voting rights age, 78% against extending voting rights to foreigners and 70% against the limitation of ministerial mandates. Several reasons contributed to this catastrophic outcome for the governing majority. First, the early, active and successful bottom-up campaign of the 'no' vote allowed for high visibility of their arguments in the traditional media and (especially) in social media – particularly on the foreigners' voting rights issue. Second, and relatedly, the official campaign was too short to properly deal with the complex issues raised by the referendum. Third, the government failed to conduct, as promised, a participatory, enthusiastic campaign, and instead was unable to avoid repeated gaffes and contradictory declarations by its political leaders. Fourth, in part due to the absence of a referendum culture in the country, the 'no' vote was also a protest vote against a government that was perceived as illegitimate by a large part of the population as it did not include the country's largest party.³⁵

The clear rejection of the governmental proposals was accepted by the government. The proposals were withdrawn. While the recent national elections of October 2018 have again given a small majority to the DP-LSAP-Green coalition, the new coalition programme has no ambitions anymore concerning participation of foreign citizens in national elections, but only wants to study ways to increase participation in local elections.³⁶

³⁵ Dumont, Patrick/Kies, Raphaël, Luxembourg, in : European Journal of Political research Political Data Yearbook, 55, 2016, p. 175-182

³⁶ « Les moyens tendant à améliorer la participation des citoyens étrangers aux élections locales seront étudiés. Accord de coalition 2018-2023, Chapitre 'Etat et Institutions', p. 6

To understand the specific challenges around political participation of mobile EU citizens in Luxembourg, it is, finally, important to briefly outline the linguistic situation these mobile francophone, romanophone, germanophone and anglophone citizens have to handle, by quoting again Fernand Fehlen:

In 1984 Luxembourgish became the national language by virtue of a law that had been pushed through by the lower middle classes and schoolteachers against the Francophile – though Luxembourgish speaking – elites of the country. That law also declared French to be the language of jurisdiction and French, German and Luxembourgish to be accepted as languages of the administration. Luxembourg's linguistic market is thus really multilingual and governed by a *legitimate multilingual language competence* requiring a subtle understanding of the three languages officially in use in Luxembourg and, in addition, of English as foreign language. In the last years Luxembourgish has been further upgraded and developed (...), especially as written language and French is being challenged by English as prestige language. The status of German is rather ambivalent: stigmatized as competitor and antagonist of Luxembourgish, it remains – at least in print media – the mostly used written language.³⁷

There are three types of elections held in Luxembourg: (1) elections for the Chamber of Deputies (Parliament, henceforth 'national elections'), (2) elections for Municipal Councils (henceforth 'local elections') and (3) EP elections. In the last two decades, for the first time since 1937, two advisory national referenda were organised, one on the Constitutional Treaty in 2005 and one on the vote of non-Luxembourgish residents in 2015. For these referenda, specific laws were created.³⁸

For all elections the minimum age required is 18 years. The franchise for the different elections is either dependent on a residence requirement or on a nationality requirement. The franchise for the national elections is restricted with a Luxembourg nationality requirement. A residence requirement exists for the local elections. For EP elections there is, in principle, a residence requirement, but non-resident citizens also have the right to vote if they register.

Conditions for voters change depending on residence and nationality. For Luxembourg citizens registration on the electoral rolls is automatic and voting is mandatory. For non-national residents, registration on the electoral roll is not automatic but once there are registered, voting is mandatory. For non-resident Luxembourg citizens, registration on the electoral roll is not necessary, but they have to meet certain requirements to make an application for postal voting. Furthermore, non-resident Luxembourg citizens have the right to vote but not to stand as candidates in national and EP elections, because there is a residence requirement for eligibility.

The electoral rights are mainly set out in the Constitution and the Electoral Laws and Decrees.³⁹ The mayors and aldermen of the municipalities are responsible for the registration of the eligible voters in their respective municipality and for the updating of the electoral roll.

³⁷ Fehlen, Fernand, A new national flag for Luxembourg: Struggling over identity in a small multilingual state. In: Andrén et al Mats (Hg.): Cultural Identities and National Borders : proceedings from the CERGUE conference held at the Faculty of Arts. University of Gothenburg, 7-8 june 2007. Göteborg: University of Gothenburg. Centre for European Research, 2009, S. 67–84. Retrieved from : <http://publications.uni.lu/bitstream/10993/5671/1/Red%20Lion.pdf>

³⁸ Loi du 4 février 2005 relative au référendum au niveau national, <http://legilux.public.lu/eli/etat/leg/loi/2005/02/04/n1/jo>; Loi du 27 février 2015 portant organisation d'un référendum national sur différentes questions en relation avec l'élaboration d'une nouvelle Constitution, <http://legilux.public.lu/eli/etat/leg/loi/2015/02/27/n1/jo>.

³⁹ Elections législatives, européennes et communales, Mémorial A – 501 du 21 juin 2018, Prise d'effet : 25 juin 2018, Recueil réalisé par le Ministère d'Etat – Service Central de législation, <https://elections.public.lu/fr/legislation.html>

There are two methods of voting. First, voting is possible in person.⁴⁰ This is done by poll card, sent by the communal administration to each voter at least 5 days in advance, indicating: the date; the start and end times of the voting; the location of the polling station; if there are multiple polling stations in the municipality, the communal administration designates the one where the voter is called to vote. The poll card contains instructions for the voter as well as the list of candidates. On election day, voters can go to the polling station with their identity card or their passport, without having to show the poll card. A voter who shows up without one of these documents may be admitted to vote if his or her identity and capacity are recognized by the members of the polling station.

Secondly, there is the possibility of postal voting. Since the new electoral law of March 8 2018, this possibility is not restricted any more to non-resident citizens and resident citizens who are temporarily abroad on the polling day or voters above the age of 75 or persons unable to present themselves to the polling station. All voters registered on the electoral roll can ask to vote by correspondence during the communal, the EP or the national elections.⁴¹

A voter wishing to vote by mail must inform the commune of residence (or the commune of Luxembourg-City for non-resident voters) and request the poll card. The request for the poll card can be made: electronically via MyGuichet.lu (possible since new electoral law of March 8 2018);⁴² by post (on free paper or on a pre-printed form to be obtained from the voter's commune of residence). The application must state: name; first name; date and place of birth; the voter's address and the address to which the poll card has to be sent (and for Luxembourg voters residing abroad, the application must provide a copy of their valid passport). Upon receipt of the request, the commune checks if the application contains the required information and documents and if the applicant is registered on the electoral rolls. If the request for postal voting is accepted, the commune will send the poll card by registered mail with return receipt to the voter.

The poll card has to be sent by voters, at the latest: 15 days before the election, if the voter lives in Luxembourg; 30 days before the election, if the voter resides abroad. To send the ballot to the polling station, voters must place the ballot paper, duly completed and folded, with the stamp showing on the outside, in the electoral envelope. The electoral envelope must be placed inside the postal envelope and sent by ordinary post. The envelope must be received by the polling station on the day of the election before 14.00 at the latest. Envelopes containing the ballot are kept in the post room of the receiving polling station until election day. Voters may not be represented by proxy.

Non-citizen residents

All non-citizen residents have the right to vote and stand as candidates in local elections without losing their right to vote in their country of origin. Non-nationals EU citizens must have resided in Luxembourg for at least 5 years: the last year of residence prior to the application for registration on the list of voters must be uninterrupted. TCNs must have resided in Luxembourg for at least 5 years, and the last year of residence prior to the application for registration on the list of voters must be uninterrupted. They must also be

⁴⁰ <https://guichet.public.lu/en/citoyens/citoyennete/elections.html>

⁴¹ Art. 31, 32, 45, 46, 68, 69 of law of March 8 2018.

⁴² <https://guichet.public.lu/fr/citoyens/citoyennete/elections/elections-communales/vote-correspondance-elections-communales.html>

legally resident, have valid identity documents and, if necessary, a visa during all of the aforementioned period of time. The registration is not automatic.

Resident non-national EU citizens can vote and stand as candidates in the EP elections in Luxembourg, but they are not registered automatically. Since the electoral law of December 20 2013, there is no clause of previous residence anymore to register for voting for EP elections.⁴³

Electoral registration for the local elections does not confer the right to vote in EP elections, because these are two different registers, and, as such, a separate registration for each is required.

Voting is mandatory for all voters registered on the electoral roll, regardless of their nationality (Luxembourg nationals, EU nationals and others). Voting can be done in person with a poll card at the polling station designated to the voter by the communal administration or by postal vote.

Non-resident citizens

Non-resident citizens, whether or not they are resident in EU Member States or in third countries, have the right to vote in national elections, EP elections and referenda.⁴⁴ To do so, they do not have to be registered on the electoral roll but may vote in the national elections, EP elections and referenda by postal vote.⁴⁵ The request for postal voting must be sent by non-resident citizens to the commune of their last domicile in Luxembourg, failing that the Luxembourg commune of birth, failing that the City of Luxembourg, electronically on My Guichet.lu or by post, at the earliest 12 weeks and at the latest 40 days before election day, as the poll card is sent abroad. In the letter, the voter must indicate their surname, given name, date and place of birth, domicile and the address to which the polling card should be sent, solemnly declare that they have not been stripped of the right to vote and, as Luxembourg voters residing abroad, provide a copy of their valid passport.

2. Non-national EU Citizens' Franchise in EP and Local Elections

2.1. Overview of Relevant Administrative Regulations

EP elections

Book IV of the Modified Electoral Act of February 18 2003 (last modified by law of March 8 2018) establishes the specific rules concerning EP elections. A coordinated text of all laws and decrees is updated on a regular basis.⁴⁶ Furthermore, the Ministry of Interior sends circulars to every municipality ahead of EP elections.

⁴³ <http://legilux.public.lu/eli/etat/leg/loi/2013/12/20/n2/jo>

⁴⁴ <http://data.legilux.public.lu/file/eli-etat-leg-recueil-elections-20180625-fr-pdf.pdf>

⁴⁵ <https://guichet.public.lu/fr/citoyens/citoyennete/elections/elections-legislatives/vote-correspondance-elections-legislatives.html>

⁴⁶ Elections législatives, européennes et communales, Mémorial A – 501 du 21 juin 2018, Prise d'effet : 25 juin 2018, Recueil réalisé par le Ministère d'Etat – Service Central de législation, <https://elections.public.lu/fr/legislation.html>

Local elections

Book III of the Modified Electoral Law of February 18 2003 establishes the specific rules concerning local elections. Furthermore, the Ministry of Interior sends circulars to every municipality ahead of local elections.

2.2. Voter registration

The mayors and aldermen of the municipalities are responsible for the registration of the eligible voters in their respective municipality and for the updating of the electoral roll.

EP elections

Resident non-national EU citizens can register for EP elections at the municipality of residence. Once the EU citizen is registered, his or her registration is automatically renewed for the subsequent elections.

There are certain requirements for this registration. First, if non-national EU citizens wish to participate in the European elections in Luxembourg for the first time, these citizens must apply for registration on the electoral roll at their commune of residence before the 87th day preceding the elections. The signed and dated application can be made either: electronically via MyGuichet.lu; or on paper. In this case and if the application for registration is accompanied by the required documents, a receipt is issued by the commune of residence of the person concerned. Secondly the non-national EU-citizen has to hand in a formal declaration with a current valid identity document.⁴⁷ The form is available in French, English and German.

To vote, they have to specify in the formal declaration that they will only exercise their right to vote in elections for the European Parliament in Luxembourg and not in the Member State of their nationality.

Since the electoral law of December 20 2013, there is no clause of previous residence anymore to register for voting for EP elections.⁴⁸

Local elections

Resident non-national EU citizens and TCNs can register for local elections at the municipality of residence. Once the EU citizen is registered, his or her registration is automatically renewed for the subsequent elections.

There are certain requirements for this registration, besides the already mentioned clauses of previous residence. First, a citizen of another State, whether or not it is an EU Member State, wishing to participate for the first time in local elections may either: submit this request electronically via MyGuichet.lu, or submit a written application on plain paper. In the latter case, the voter must go in person to the communal administration of their place of residence in order to complete, date and sign an application for registration on the separate list of foreign voters (which mentions, among others, the nationality of the registered voters).

⁴⁷ <https://guichet.public.lu/en/citoyens/citoyennete/elections/elections-europeennes/inscription-listes-electorales-europeennes.html#bloub-5>

⁴⁸ <http://legilux.public.lu/eli/etat/leg/loi/2013/12/20/n2/jo>

A receipt is issued when the application is complete. The application for registration must be submitted the 87th day before the election at 17.00 at the latest.

In addition of the application for registration, foreign nationals must also complete, date and sign a formal declaration, with a current valid identity card, stating nationality, date and place of birth, last address and information about their right to vote and eligibility in country of origin. If foreign nationals are registered to vote, they will remain registered under the same conditions as Luxembourgish voters.

2.3. Information during Election Campaigns

Authorities and/or nongovernmental organisations (NGOs) proactively inform EU citizens about their electoral rights, for local as well as for EP elections. Municipalities and governmental bodies (Ministry of Family, Office Luxembourgeois de l'Accueil et de l'Intégration – OLAI,⁴⁹ Centre des technologies de l'information de l'Etat – CTIE,⁵⁰ Service Information et Presse – SIP⁵¹), NGOs CEFIS,⁵² ASTI⁵³ and CLAE⁵⁴ and the European Parliament Liaison Office in Luxembourg organise information campaigns with the main purpose to inform foreign citizens residing in Luxembourg about the voting rights and the voting conditions and to encourage them to register on electoral roll. Brochures are edited in the 23 official languages of the EU.

EP elections

To prepare the EP elections of 26 May 2019, the Ministry of Family, Integration and the Greater Region (MFIG) launched by a press conference on December 17 2018 an information and awareness-raising campaign (“Je peux voter”, “I can vote”) for EU citizens with a view to their registration on the electoral roll, which is coordinated by the Luxembourg Office for Reception and Integration (OLAI), in partnership with the European Parliament Liaison Office in Luxembourg and CEFIS. A website provides to EU citizens explanation about voting rights and the importance of participation in elections (website accessible in German, French, English and Portuguese) www.jepeuxvoter.lu.⁵⁵ A flyer in 10 languages (FR, LU, DE, P, IT, NL, GB, ESP, RO, PL) explains where one can vote in EP elections, who can vote and how to register.⁵⁶ The website also provides information about political parties and their programme, the latest news about the EP elections of 2019, tools and aids for the campaign, and publications about political participation of non-national citizens.

Furthermore, OLAI launched a call in January 2017 for projects to provide financial support to associations wishing to carry out actions to encourage non-national EU citizens to vote in the 2017 local elections and 2019 European elections (with maximum funding of 5,000 euros for projects presented by a single association, and 15,000 euros for projects

⁴⁹ <http://www.olai.public.lu/fr/index.html>

⁵⁰ <https://ctie.gouvernement.lu/fr.html>

⁵¹ <https://sip.gouvernement.lu/fr.html>

⁵² <http://www.cefis.lu>

⁵³ <http://www.asti.lu>

⁵⁴ <https://www.clae.lu>

⁵⁵ <https://jepeuxvoter.public.lu/fr/campagne.html>

⁵⁶ <https://jepeuxvoter.public.lu/dam-assets/publications/jepeuxvoter-2019-flyer-web.pdf>

presented by a consortium of several associations). In total, 42 projects were funded. 13 projects are funded by OLAI for the 2019 European elections.

Local elections

The Ministry of Family, Integration and the Greater Region – OLAI – supported in 2016 a pre-campaign to raise awareness of the registration of non-national citizens on the electoral lists, followed by the launch of a campaign in 2017 with a view to the local elections of October 8 2017.

Quantitative and qualitative data on electoral participation at local level and impact of actions by authorities have been analysed by CEFIS in their publication RED 22.⁵⁷ More than half of the 105 Luxembourg municipalities have participated in several actions of the awareness and information campaigns. These include publicity by postal mail or by website (mostly through Facebook or by a link to www.jepeuxvoter.lu), awareness-raising by communal employees directly to the people, participation in the national registration days, flexible hours of the registration desks (during the evenings and on Sundays), personalised letters to non-national residents in the municipality, information sessions organised with CEFIS and CCCIs, and the possibility of registration during communal celebration days. Data show that some actions have had a greater impact respectively and have contributed to the increase of political participation, for example actions initiated by the multipliers or personalised letters.⁵⁸

It is in the context of this pre-campaign and campaign for the local elections that CEFIS has set up the training of ‘multipliers’. For the 2017 local elections, OLAI and CEFIS organised in collaboration with the Maison de l’Europe (Representation of European Commission and European Parliament in Luxembourg, located in the historical centre of Luxembourg-City) trainings for ‘multipliers’: a reference person within a community, institution or group who is entitled to establish a bridge between its public and the Luxembourgish society. This person is in direct contact with its members (sport club, company, association,...) and knows the political and social issues regarding democracy and voting rights. A multiplier should disseminate information about voting rights by organizing information sessions and discussions. Training focuses on the messages and practices for multipliers to target and convince their target audiences and networks to register to vote.

In 2017, NGO ASTI also launched a campaign “Je vote au Luxembourg” with a website explaining how to register and how to vote.⁵⁹

Authorities and NGOs have concluded that this awareness and information campaign has had a positive impact on the rise of the number of resident non-national voters.

2.4. Political Parties and Candidacy Rights

In Luxembourg, around 25,000 people are members of a political party which is represented in the Chamber of Deputies (Parliament), in other words less than 5% of the population.⁶⁰

⁵⁷ Besch, Sylvain/Dubajic, Nénad, Bilan des inscriptions pour les élections communales du 8 octobre 2017, (RED:Recherche, étude, documentation ; n°22), Luxembourg, Cefis, 2018 (RED 22)

⁵⁸ Id. p. 35f.

⁵⁹ <http://www.asti.lu/je-vote-en/>

The proportion of non-national members of these parties lies between 4 and 10%. In the parties' communications as well as in the media, while the migration background of a MP or a minister might be mentioned, non-national politically active persons are not a specific topic.

Political parties first of all address their voters, most of whom are Luxembourg citizens. They sometimes prepare a translation of their European programmes (or summary of their programme) into French, and some parties use simultaneous translations during electoral campaign meetings. Political parties or their "international sections" sometimes launch a call to encourage non-national EU citizens and TCNs to register on the electoral rolls and members of political parties have been trained recently by CEFIS as multipliers as part of the national campaign for registration on the municipal electoral lists.

At the request of CEFIS, prior to the 2017 municipal elections and the closing date for registration on the electoral rolls, the political parties presented themselves in several languages, indicating in particular some key dates in the party's history, the main values that the party defends, and some ideas and key proposals in various fields. Some parties (notably Déi Gréng, The Green Party) had also presented framework programmes for communal elections in several languages.

Theoretically, it is easy to become a member of a political party. However, in reality, foreigners, whether EU citizens or not, encounter difficulties due in particular to the particular linguistic situation of the country, which initially has three official languages, French, German and Luxembourgish, to which must be added the languages of migrants and English, which is becoming more and more important for the Luxembourg financial sector.

While Luxembourgish is developing among foreigners, many of them still do not practice it at all or only to a limited extent. However, the national political discourse and practice are dominated by the Luxembourgish language, which is used on a daily basis. Nearly all political debates are done in Luxembourgish. In the long term, if a foreigner does not speak this language, he or she will be excluded from debates and conversations that are mainly conducted in Luxembourgish. A big problem remains the integration into the local sections of political parties, while membership is essentially Luxembourgish and Luxembourgish-speaking.

Basically, the foreign membership of Luxembourg political parties remains low and the results of a CEFIS research on the integration of foreigners into political parties in 2009 (RED 13: Political parties and foreigners in Luxembourg) remain valid and have been confirmed by the subsequent research reports: complex multilingual context with non-national residents divided into franco-romanophone groups vs germanophone groups and (increasingly) anglophone groups, abandonment of French as a lingua franca in the political debate and inner communication in the parties to the exclusive benefit of Luxembourgish as a growing trend since 2000; generalized opposition to foreign sections or policies of quotas for candidates; problems understanding the Luxembourg political system (mandatory vote, mixture of personal and list votes, possibility to vote for persons of different political parties, the so-called 'panachage'); and the great influence of socioeconomic and sociocultural factors.

The limited number of candidates of foreign nationality and elected representatives in local and EP elections is an additional obstacle to a "political career". A non-national EU citizen has never been elected for the Luxembourg EP elections. In the 2017 local elections,

⁶⁰ Dubajic, Nénad/Besch, Sylvain/Legrand, Michel, Les partis politiques et les étrangers au Luxembourg, (RED : Recherche, étude, documentation ; n° 13), Luxembourg, Sesopi-Centre intercommunautaire, 2009 (RED 13)

15 foreigners, all non-national EU citizens, were elected out of a total of 1,119 elected, i.e. only 1.3%. This reality is due to the electoral system, but also to the electoral procedures.⁶¹ Unlike the national resident, the non-national candidate must produce in support of his application, for local elections: (1) a statement specifying: (a) his nationality and address in the Grand Duchy of Luxembourg; (b) that he or she is not deprived of the right to stand as a candidate in his or her State of origin; (2) a valid identity document; (3) a certificate documenting the period of residence in the Grand Duchy of Luxembourg. For EP elections, the non-national candidate must produce in support of his application: (1) a formal statement specifying: (a) his nationality, date and place of birth, his last address in the Member State of origin and his address in the Grand Duchy of Luxembourg; (b) where applicable, on the electoral roll of which local authority or constituency in the Member State of origin it was last entered; (c) that he is not simultaneously a candidate in the European elections in another Member State; (d) that he is not deprived of the right to stand as a candidate in the Member State of origin by an individual court decision or an administrative decision; (2) a valid identity document.⁶²

However, it has to be noted that the 2015 referendum mobilised many non-national EU citizens. During the referendum held on 7 June 2015 to give foreigners access to the right to vote in national elections, a Migration & Integration Platform – a citizens' platform that brought together some 20 civil society organisations, including foreigners' associations – was created. The Platform's objective was to campaign for a 'yes' in this referendum, even though the leaders of this campaign were essentially Luxembourgers. More recently, an ECI, European Citizens' Initiative, was initiated in Luxembourg by Luxembourg and foreign associations in May 2018 to change migration policy in EU countries. A petition was launched with the slogan "We are Welcoming in Europe". Several demonstrations have also taken place since September 2018 around the climate and in support of the UN COP 24 Climate Change conference in Poland. These are not only initiatives of non-national groups, as they involve Luxembourgish and foreign associations.

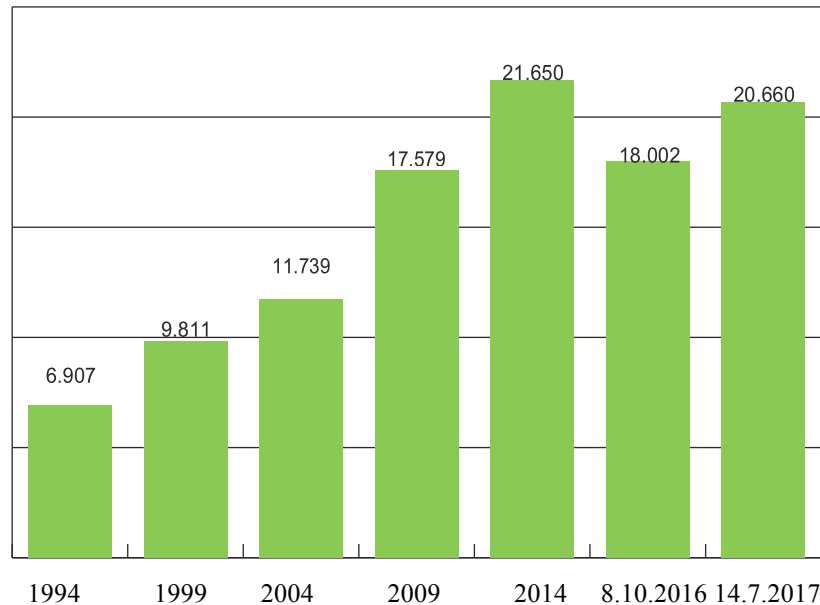
⁶¹ RED 22, op. cit., p. 126

⁶² <http://data.legilux.public.lu/file/eli-etat-leg-recueil-elections-20180625-fr-pdf.pdf>

2.5. Turnout

EP elections

Figure 2 : Registrations of non-national EU citizens (1994-2017)



Source: CEFIS, 2017

To vote in the EP elections of 25 May 2014, for the first time there was no longer any previous residence requirement. The graph shows the clear improvement compared to the 2009 EP elections (+23%, from 17,579 to 21,650). But this still corresponds only to 12.2 % of the resident non-national EU citizens and to 8.2 % of the total electorate for EP elections. The graph shows too that, from 2014 to October 8 2016, the number of registrations decreased by 17% to 18,002, certainly due largely to naturalizations of adults residing in Luxembourg. Finally, between October 8 2016 and July 14 2017, the number of registered persons increased by 2,658, or an increase of 15% to reach 20,660 registered members. The awareness campaign for the local elections seems therefore to have been beneficial for European registrations.⁶³

However, the potential remains significant since out of 135,365 non-national EU citizens over 18 years old in Luxembourg, 20,660 have registered, and 114,705 can still do so, for an actual registration rate of 15% of resident non-national EU citizens.

⁶³ RED 22, op. cit., p. 33-34

Figure 3: Registrations by nationality for EP elections (1999-2014)

| Nationalities | Elections 1999 | Elections 2004 | Elections 2009 | Elections 2014 | Change 2009-2014 | Registration Rate 2014 |
|---------------|----------------|----------------|----------------|----------------|------------------|------------------------|
| Portuguese | 2699 | 3646 | 6546 | 7812 | 19 % | 10.9 % |
| French | 1066 | 1266 | 2266 | 3565 | 57 % | 11.6 % |
| Italian | 3095 | 3048 | 3375 | 3124 | -7 % | 18.4 % |
| Belgian | 1150 | 1413 | 1930 | 2309 | 20 % | 14.7 % |
| German | 879 | 1127 | 1633 | 2048 | 25 % | 18.3 % |
| British | 248 | 336 | 467 | 595 | 27 % | 12.3 % |
| Dutch | 299 | 403 | 549 | 594 | 8 % | 17.0 % |
| Spanish | 180 | 190 | 228 | 380 | 67 % | 9.8 % |
| Danish | 56 | 83 | 141 | 224 | 59 % | 13.9 % |
| Irish | 77 | 89 | 112 | 165 | 47 % | 13.5 % |
| Polish | | 16 | 63 | 136 | 116 % | 4.7 % |
| Greek | 26 | 35 | 61 | 122 | 100 % | 6.8 % |
| Romanian | | | 22 | 103 | 368 % | 4.7 % |
| Austrian | 19 | 47 | 58 | 97 | 67 % | 13.7 % |
| Swedish | 16 | 25 | 40 | 75 | 88 % | 5.7 % |
| Tcheque | | 3 | 17 | 59 | 247 % | 9.1 % |
| Bulgarian | | | 8 | 58 | 625 % | 6.9 % |
| Hungarian | | 2 | 10 | 44 | 340 % | 4.0 % |
| Finnish | 1 | 7 | 22 | 37 | 68 % | 4.4 % |
| Slovak | | 0 | 6 | 29 | 383 % | 5.2 % |
| Lettonian | | 0 | 5 | 18 | 260 % | 4.0 % |
| Estonian | | 0 | 5 | 16 | 220 % | 3.6 % |
| Slovene | | 3 | 8 | 16 | 100 % | 3.9 % |
| Maltese | | 0 | 4 | 8 | 100 % | 4.0 % |
| Croatian | | | | 7 | 0 % | 1.5 % |
| Lithuanian | | 0 | 2 | 7 | 250 % | 1.3 % |
| Cypriot | | 0 | 1 | 2 | 100 % | 3.1 % |
| Total | 9811 | 11 739 | 17 579 | 21 650 | 23 % | 12.2 % |

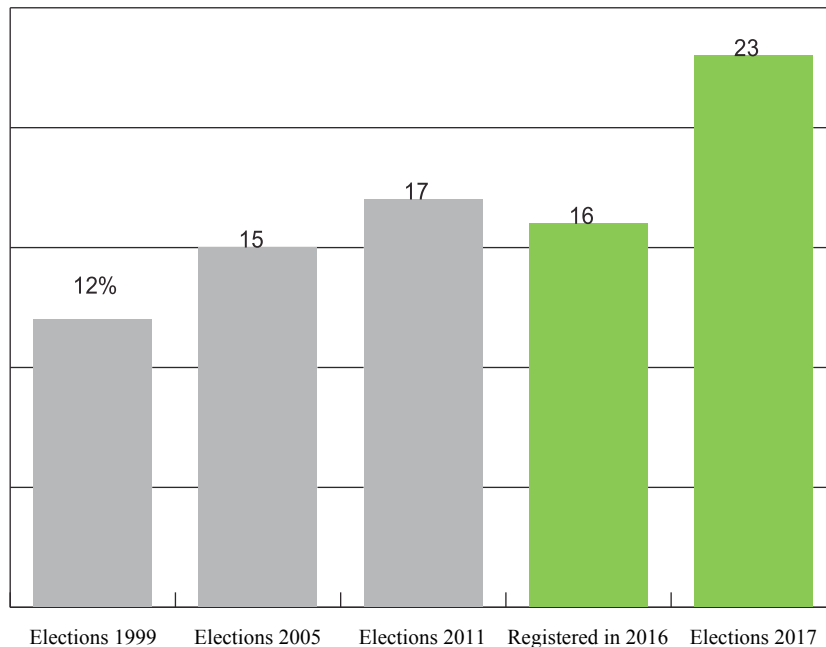
Source: CEFIS, 2015

The graph confirms the low registration (around 10 %) of voters from the Europe of the first 12 Member States and the even lower number of voters from the newer European Member States. Analysts of Cefis explain the increase of registration of some nationalities like British and Irish as connected to the targeted information campaign towards anglophone

communities in Luxembourg in 2014.⁶⁴ Many non-national EU citizens continue to vote in their country of origin.

Local elections

Figure 4 : Change in registration rate in % (1999-2017)



Source: CEFIS, 2018

On July 14 2017, the closing date for registration on the electoral roll, 34,638 non-national residents (of 134 different nationalities) had registered, which represents a real registration rate of 22.8 % compared to 151,938 foreigners aged 18 and over who have resided in Luxembourg for at least 5 years. The registration rate of women (24 %) is slightly higher than that of men (22 %). The registration rate of non-national EU citizens for the 2017 local elections was 23.2% (31,288 persons), compared to 19.7% of TCNs (3,350 persons).⁶⁵ The increase of more than a third could be principally due to the awareness and information campaign launched by national and local authorities and NGOs in January 2017. The registration rate has increased in general for all communities of non-national EU citizens.

The electoral weight, which calculates the ratio between the foreign electorate and the total electorate is still very low: 12%, i.e. in the 2017 local elections, out of 100 voters, 12 were of foreign nationality and 88 were of Luxembourg nationality. If we compare this with the population numbers: in 2017, out of 100 residents 47 were of foreign nationality and 53 of Luxembourg nationality.

There were 270 foreign candidates, or 7.6% of the total number of applications, compared to 236 or 7% in 2011. In 2017, of the 270 foreign candidates, 145 were women compared to 125 men, or 54% of foreign female candidates.

⁶⁴ Manço, Altay/Mertz, Frédéric/Gillen, Laurence, La participation politique des étrangers au Luxembourg : recherche Migralux 2014, (RED : Recherche, étude, documentation ; n° 19), Luxembourg, Cefis, 2015, p. 11-14 (RED 19)

⁶⁵ Cefis, Elections communales 2017. Quelques informations et chiffres clés sur les résidents et les élections communales de 2017, Luxembourg, 2018

15 foreigners, all non-national EU citizens, were elected in 2017 (they were 17 in 2011) out of a total of 1,119 elected, i.e. 1.3% foreign elected officials: 6 Portuguese, 2 Belgian, 2 Italian, 2 Dutch, 1 German, 1 British and 1 Danish⁶⁶.

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 relevant administrative regulations for both national and EP elections for non-resident citizens are the Modified Electoral Act of February 18 2003 (last modified by law of March 8 2018) and the coordinated text of all laws and decrees concerning elections that is updated on a regularly basis.

3.2. Voter Registration

Non-resident citizens don't need to be registered on the electoral roll but may vote in the national elections, EP elections and referenda by postal vote. A request for postal voting has to be resubmitted for every election.

The request for postal voting must be sent by non-resident citizens to the commune of their last domicile in Luxembourg, failing that the Luxembourg commune of birth, failing that the City of Luxembourg, at the earliest 12 weeks and at the latest 40 days before election day, as the poll card is sent abroad.

The request for the poll card can be made: electronically on MyGuichet.lu; by post on plain paper or on a pre-printed form which can be obtained from the communal administration where the voter is registered.

In the letter, the voters must indicate their surname, given name(s), date and place of birth, domicile and the address to which the polling card should be sent. They must also solemnly declare that they have not been stripped of the right to vote and, as Luxembourg voters residing abroad, provide a copy of their valid passport.

Upon receipt of the request, the commune checks if: the application contains the required information and documents, and if the applicant is registered on the electoral rolls. If the applicant does not meet the conditions for postal voting, the commune will inform him of the refusal at the latest 35 days before the election. If the request for postal voting is accepted, the commune will send the poll card by registered mail to the voter. The poll card is sent at the latest 30 days before election day.

The poll card contains the following information: the list of candidates; instructions for voting by postal vote in a legislative election; a non-transparent, standard-type, duly

⁶⁶ Red22, op. cit., p. 127

stamped envelope; duly stamped voting papers; an envelope, for the transmission of the electoral envelope which must bear the indication "*Elections - Vote par correspondance*", the indication of the polling station on the lower right corner of the envelope and the reference number, name, first name(s) and address of the voter.

The voter completes the ballot paper. To send the ballot to the polling station, voters must place the ballot paper, duly completed and folded, with the stamp showing on the outside, in the electoral envelope. The electoral envelope must be placed inside the postal envelope and sent by ordinary post. The envelope must be received by the polling station on the day of the election before 14.00 at the latest. The envelopes containing the ballot are kept by the postal services of the receiving polling station until election day.

EP elections

If the non-resident citizens reside in another Member State, an additional declaration is required that they will only exercise their right to vote in elections for the European Parliament in Luxembourg.

National elections

There are no additional conditions for the registration for national elections.

3.3. Turnout

5.972 persons voted from abroad in the national elections held on October 14 in 2018.⁶⁷ In the 2014 EP elections, 11.938 persons voted by post, but this figure includes voters from Luxembourg and from abroad.⁶⁸

4. Conclusion

Non-national EU citizens encounter problems concerning knowledge about political system in Luxembourg and concerning language in the political practice as nearly all debates are in Luxembourgish. Non-resident Luxembourg citizens are still waiting to be really taken into account as potential participants in national and EP elections in their country of nationality.

Information and awareness-raising

Since 2017, a combined effort by national and local authorities, EU offices in Luxembourg and NGOs has made possible comprehensive and targeted campaigns to inform and encourage foreign citizens to register to vote for local and EP elections. This led to an increase of registration to 23 % for 2017 local elections and already 23% for the future 2019

⁶⁷ Data from: <https://download.data.public.lu/resources/elections-legislatives-du-14-octobre-2018-electeurs-inscrits-et-vote-par-correspondance/20181005-140134/nombres-delecteurs-et-nombre-de-vpc.xlsx>

⁶⁸ Data from: <https://elections.public.lu/fr/elections-europeennes/2014/resultats.html>

EP elections (for which the campaign “I can vote” for EP elections only begun in December 2018. On July 14 2017, the registration rate for EP elections was 10,7%. In the long term, the aim is to reach at least 50 % of non-national citizens potentially interested in politics to register for local and EP elections held in their country of residence.⁶⁹

Language

The specific and original multilingual Luxembourg context and the required *legitimate multilingual language competence* (subtle understanding of four languages Luxembourgish, French, German and English) represent a great challenge for political participation. While information and raising awareness campaigns are done in different languages – from French, German, English to the 23 official EU languages – and since 2018 registration is possible online in French and German, the political debate itself in and between political parties as well as in the municipality councils is done mostly in Luxembourgish, representing a barrier to political implication. New ways have to be found to open wider Luxembourg’s political debate to the 48 % foreigners in the population and to their languages.

Electoral system

The Luxembourg electoral system is complicated for non-nationals, in which voting can take three different forms: list voting, nominative intra-list voting or nominative inter-list voting (*panachage*). In addition, with regard to local elections, depending on the size of the communes, one can be confronted with elections according to the majority system (communes with less than 3,000 inhabitants) or the proportional system (communes with more than 3,000 inhabitants). The lack of knowledge of the electoral system is an obstacle to voter registration as well as the aversion to compulsory voting.

Furthermore, it is difficult for a foreign candidate to appear on a list, as evidenced by the data collected by Cefis and it is even more difficult for them to be elected. This difficulty can be explained in particular by the electoral system in Luxembourg, which is strongly influenced by the impact of registered voters in local and EP elections (nearly 90 % are Luxembourg citizens). Only the foreign candidates who would be known to the Luxembourg electorate are likely to score well in the elections.

Residence clause

Whereas the law of December 20 2013 removed the clause of previous residence for EP elections, the clause of five years previous residence in Luxembourg before possible registration to vote still exists for foreigners.

In 2017, uncertainty persisted regarding the residence requirement during the national campaign to encourage registration on the communal electoral lists. Is it a continuous or discontinuous residence of five years? The electoral law was silent on this subject. In a circular dated 31 May 2017 addressed to the communal administrations, the Ministry of the Interior recommended, in the interests of equality, adopting a positive approach to access to the electorate and eligibility. He suggested that municipalities and polling station presidents consider the length of residence completed, even if it was discontinuous, both for registration on the electoral lists and for the submission of candidatures. Finally, with the amendment of

⁶⁹ RED19, op. cit., p. 25-26

the electoral law of March 8 2018, the residence requirement is specified as follows: to be registered on the communal electoral roll, only the last year of residence of the 5 years of residence, preceding the application for registration on the electoral roll, must be uninterrupted. Similarly, to be a candidate in municipal elections only the last year of residence, out of the 5 years of residence, preceding the filing of the candidacy must be continuous.

Registration

Since the last amendment of the Electoral Law in March 2018, registration on the electoral rolls must be done at the latest at 17.00 87 days before the conduct of the upcoming elections and there is also the possibility of electronic registration on the electoral roll. While the possibility to register electronically represents big progress, the closing date for voter registration, i.e. 87 days before the elections, still remains a problem. This closing date is before the launch of the electoral campaign by the political parties and therefore before political debates (and the communication of political positions), which does not stimulate voter registration.

For local elections, NGOs working in the field of immigration and integration have asked to reduce the five years previous residence clause and for an automatic registration of foreigners on the electoral roll at the time they declare they are resident in a commune.

