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# REPORT ON POLITICAL PARTICIPATION OF MOBILE EU CITIZENS: ROMANIA

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# Report on Political Participation of Mobile EU Citizens

## Romania

Daniela Vintila\* and Sorina Soare†‡

### Abstract:

Since Romania's accession to the European Union, resident EU citizens enjoy the right to vote in and stand for local elections and European Parliament (EP) elections held in Romania. Due to the fact that non-resident nationals vastly outnumber EU citizens residing in Romania, the enfranchisement of Romanians abroad is, however, a much more salient issue in Romania. Non-resident nationals may vote in national and EP elections, but cannot stand as candidates if they are registered with the domicile abroad. The turnout of non-citizen resident and non-resident citizens in elections held in Romania is overall quite low. Possible facilitators would be to simplify the voting and registration procedure and to introduce more awareness-raising campaigns specifically targeting resident EU citizens and Romanians abroad.

### Abstract:

Odată cu aderarea României la Uniunea Europeană (UE), cetățenii UE cu domiciliul sau reședința în România au dreptul de a alege și de a fi aleși la alegerile locale și la alegerile pentru Parlamentul European desfășurate pe teritoriul României. Datorită faptului că românii din străinătate depășesc cu mult numărul cetățenilor UE rezidenți în România, dreptul de vot al cetățenilor români cu domiciliul/reședința în străinătate a devenit, de altfel, o chestiune mult mai importantă în România. Cetățenii români din străinătate au dreptul de a vota la alegerile naționale și la alegerile pentru Parlamentul European, dar nu își pot prezenta candidatura dacă nu au domiciliul în România. În general, nivelul de participare electorală al cetățenilor UE rezidenți pe teritoriul României și al cetățenilor români din străinătate la alegerile organizate în România este destul de scăzut. Implicarea lor electorală ar putea fi facilitată de măsuri precum: simplificarea procedurii de vot și de înscriere în listele electorale, precum și organizarea mai multor campanii de sensibilizare care să vizeze în mod specific cetățenii UE rezidenți pe teritoriul României și românii din străinătate.

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## 1. Introduction

Non-resident citizens have the right to vote in national legislative elections held in Romania, but cannot stand as candidates for these elections if they register their domicile abroad (see Table 1). The same applies for European Parliament (EP) elections. Non-resident citizens are automatically registered to vote in national and EP elections. Non-resident Romanian voters may cast the ballot through in-country voting, personal voting at diplomatic missions, or postal voting.

EU citizens are the only non-citizen residents who enjoy electoral rights in Romania. They may vote in and stand as a candidate in EP and local elections. EU citizens must request their registration on the list of voters for EP elections. They are, however, automatically included in the electoral register for local elections held in Romania.

Table 1. Conditions for electoral rights of non-resident citizens and non-citizen residents in Romania

Type of voter	Election type	Right Voting	Right Candidacy	Automatic registration	Remote voting
Non-resident citizens	National Legislative	YES	NO <sup>1</sup>	YES <sup>2</sup>	YES <sup>3</sup>
Non-resident citizens	European Parliament	YES	NO	YES	YES <sup>4</sup>
Non-citizen residents	Local Legislative	YES <sup>5</sup>	YES <sup>6</sup>	YES	NA
Non-citizen residents	Local Mayoral	YES <sup>7</sup>	YES <sup>8</sup>	YES	NA
Non-citizen residents	European Parliament	YES <sup>9</sup>	YES <sup>10</sup>	NO	NA

<sup>1</sup> Only for citizens registered with the domicile abroad (see details in this report).

<sup>2</sup> With the exception of non-resident citizens who wish to use the option of postal voting. In this specific case, nationals residing abroad must submit an application to be enrolled in the electoral register for postal voting. Furthermore, citizens with the domicile/residence abroad can also request their electoral registration with the address from abroad, as explained in this report.

<sup>3</sup> In-country voting and personal voting at diplomatic missions are available. In 2016, postal voting was also available.

<sup>4</sup> In-country voting and personal voting at diplomatic missions are available.

<sup>5</sup> Only resident EU citizens.

<sup>6</sup> Only resident EU citizens.

<sup>7</sup> Only resident EU citizens.

<sup>8</sup> Only resident EU citizens.

<sup>9</sup> Only resident EU citizens.

<sup>10</sup> Only resident EU citizens.

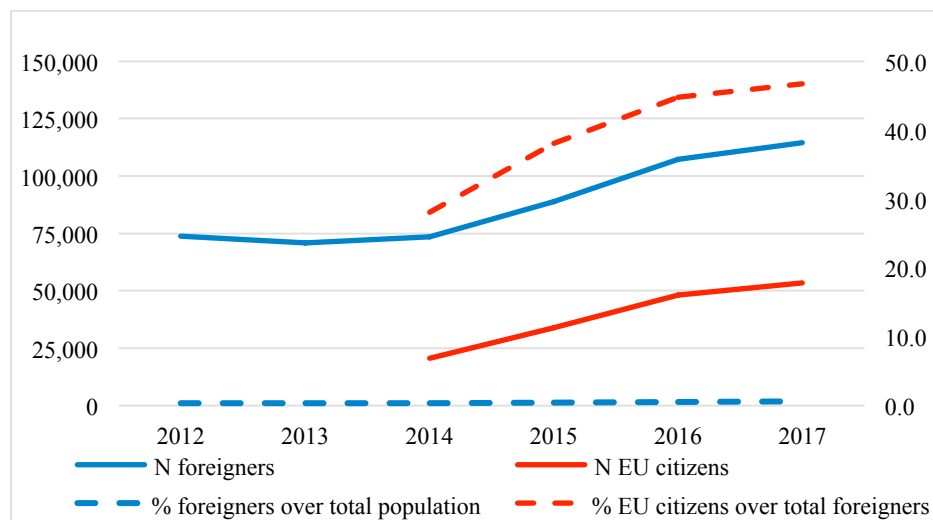
## 1.1. Demographic Characteristics of Non-citizen Residents and Non-resident Citizens

Romania stands out as an interesting case study for the analysis of the electoral rights of mobile EU citizens for several reasons. To begin with, this country shows a specific migration pattern: unlike in many other EU Member States, foreigners residing in Romania are clearly outnumbered by the Romanians living abroad.

### *Non-citizen Residents*

Figure 1 shows the Eurostat (2018) data regarding the recent evolution of the stock of foreigners in general, and EU citizens in particular, residing in Romania. Although the number of non-national residents has almost doubled over the last five years, the share of foreigners over the total population still remains very low. In 2017, a little more than 100,000 foreigners were residing in Romania, thus accounting for less than 1% of the overall population.

Figure 1. Stock of foreigners in Romania, 2012-2017<sup>11</sup>



The data also points towards a relatively rapid increase of the demographic presence of mobile EU citizens during the last five years. If in 2014, non-national EU citizens accounted only for 28% of all foreigners in Romania, by 2017, around 53,000 mobile EU citizens were residing in the country, thus representing almost half of the stock of non-national residents. Most of them originate from Italy (28% of all non-national EU citizens living in Romania in 2017), France (12%), Germany (11%), Hungary (9%), and Greece (6%). Regarding the gender distribution, around 70% of non-national EU citizens are male; and the large majority (more than 85%) are between 15 and 65 years old (Eurostat, 2018). As for the residential distribution of the largest groups of mobile EU citizens residing in Romania, the

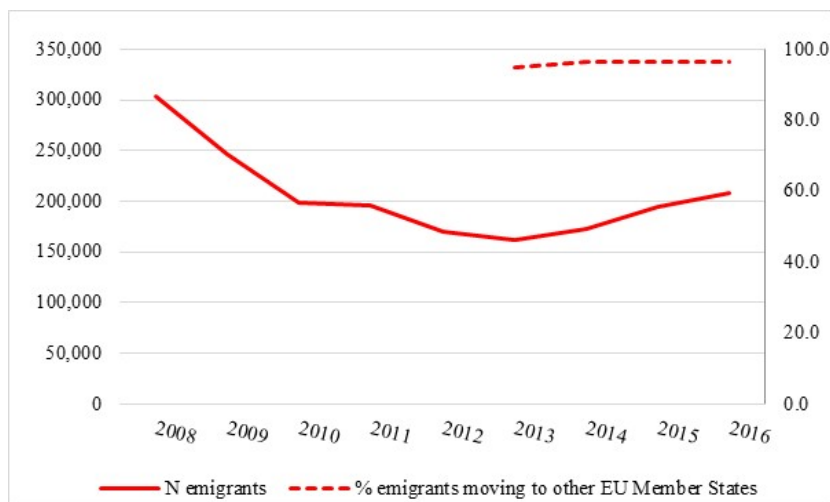
<sup>11</sup> Own elaboration from Eurostat (2018): *Population on 1 January by age group, sex and citizenship* [migr\_pop1ctz]. Available at: <http://ec.europa.eu/eurostat/data/database> “EU citizens” refer to non-national EU citizens residing in Romania.

2011 Romanian Census data<sup>12</sup> indicates that most Italians have settled in the West (27%), North-West (16%) and Bucharest-Ilfov (15%) regions;<sup>13</sup> whilst most Germans reside in the West (27%), Centre (26%) and North-West (17%) regions. Also, more than a half (51%) of Hungarian citizens residing in Romania in 2011 were settled in the Centre region, whereas the majority of French citizens were residing either in the North-West (31%) or Bucharest-Ilfov (34%) region. The 2011 Census data also shows that most foreigners residing in Romania (55%) were economically inactive, with a third of all non-national citizens declaring their studies as main reason for living in Romania. The breakdown of the activity status by specific nationalities (EU and non-EU) is not available.

### *Non-resident Citizens*

The outflows from Romania are much larger than the inflows. In a relatively short period of time, Romania has become one of the most important sending countries in Europe (Eurostat, 2018). The country has experienced several emigration phases. Shortly after 1989, large numbers of ethnic minorities and asylum-seekers moved to Germany, the US, Canada, Israel or Hungary (Sandu et al, 2004; Anghel et al, 2016). This emigration pattern changed after 2002, when Romanians were granted visa-free entry to the EU. Consequently, since the mid-2000s, many Romanians have decided to leave for a permanent or temporary residence abroad, in search for better work opportunities. Since Romania has joined the EU, it is estimated that at least 1,850,000 individuals have left the country for long-term residence abroad (more than 12 months), with a large majority of them moving to other EU countries (Figure 2). The number of long-term emigrants decreased from 2008 to 2013; although it started to increase again from 2013 onward.

Figure 2. Long-term emigrants leaving Romania during the reference year, 2008-2016<sup>14</sup>



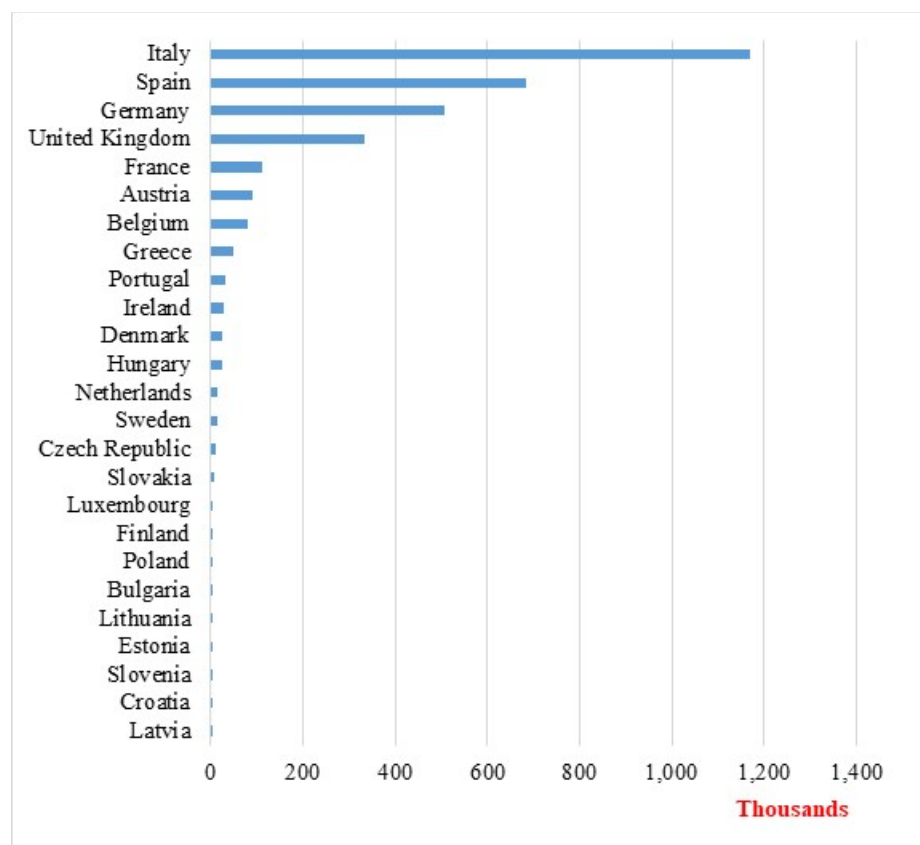
<sup>12</sup> Available here: <http://www.recensamanromania.ro/rezultate-2/>

<sup>13</sup> For statistical purposes, Romania is divided in 8 regions of development: North-West and Centre (both corresponding to Macro-region 1), North-East and South-East (both corresponding to Macro-region 2), South-Muntenia and Bucharest-Ilfov (both corresponding to the Macro-region 3), South-West Oltenia and West (both corresponding to Macro-region 4).

<sup>14</sup> Own elaboration from Eurostat (2018): *Emigration by age group, sex and citizenship [migr\_emi1ctz]*. Available at: <http://ec.europa.eu/eurostat/data/database>

In 2017, more than three million Romanians were residing in other EU Member States (Figure 3), thus becoming one of the five largest groups of EU citizens to take up residence in another EU country (Eurostat, 2018). Italy stands out as the main EU country of destination, with more than one million Romanians residing in Italy in 2017. Spain (with around 680,000 Romanian residents in 2017), Germany (with around 500,000), the UK (with around 330,000), and France (with around 110,000) also represent important destination countries for Romanian nationals. As a result of these accelerated migration outflows, Romanians are one of the main groups of EU28 citizens acquiring the citizenship of another EU country. According to the Eurostat statistics on acquisition of citizenship,<sup>15</sup> in 2016, large numbers of Romanians naturalised in Italy (13,000 naturalisations) and Germany (3,800 naturalisations). In this context of increased emigration, the Romanian network of diaspora institutions has rapidly diversified. Ministerial, inter-ministerial and sub-ministerial institutions, as well as an expanded consular network and diaspora-engaging cultural institutes have been established (Ministry for Romanians Abroad, 2017).

Figure 3. Romanian citizens residing in other EU Member States, 2017 (N, thousands)<sup>16</sup>



Given these socio-demographic specificities of the migration flows to and from Romania and the fact that this new EU Member State is considered a sending country in Europe, the topic of the political participation of non-resident nationals has consistently been

<sup>15</sup> Available here: [http://ec.europa.eu/eurostat/statistics-explained/index.php/Acquisition\\_of\\_citizenship\\_statistics#Further\\_Eurostat\\_information](http://ec.europa.eu/eurostat/statistics-explained/index.php/Acquisition_of_citizenship_statistics#Further_Eurostat_information)

<sup>16</sup> Own elaboration from Eurostat (2018): *Population on 1 January by age group, sex and citizenship [migr\_pop1ctz]*. Available at: <http://ec.europa.eu/eurostat/data/database>. The data for Cyprus and Malta are not available.



given much more salience in political and societal debates than the issue of the electoral engagement of non-national residents.

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

Romanian legislation grants the right to vote and stand as candidates in Romanian elections to all Romanian citizens (Articles 34-35 of the 1991 Constitution; Articles 36-37 of the amended version of 2003).<sup>17</sup> The right to active suffrage is conditioned by some general restrictions of age and legal capacity which apply to all those entitled to vote, independently of their country of residence or nationality. Regarding age, the Constitution grants the right to vote to individuals who are over 18 years old on the election day. The constitutional text also stipulates some franchise restrictions in relation to “mentally deficient or alienated persons, laid under interdiction, as well as the persons disenfranchised by a final decision of the court” (Article 36(2) of the 2003 version of the Constitution). Additionally, Chapter IV of the Romanian Criminal Code stipulates a ban from the exercise of the electoral rights for those who find themselves under detention.<sup>18</sup> As for the passive suffrage, the Constitution grants the right to stand as candidates in Romanian elections to those who have the right to vote and comply with age<sup>19</sup> and professional incompatibilities<sup>20</sup> requirements.

Within a context of recurrent electoral engineering,<sup>21</sup> Romanian authorities have remained reluctant to introduce alternative voting methods (see Burean et al., 2009; Oltean, 2015). Until 2016, both resident and non-resident voters could only cast their ballot in person at designated polling stations.<sup>22</sup> A major innovation was introduced for the 2016 presidential elections when citizens living abroad were allowed to vote either in person or by post. The 2015 *ad hoc* bill (Law No. 288/2015) is potentially applicable to other elections as well. All in all, since the 2000s, several political parties and civil society organisations have been debating alternative ways of conducting elections, with several proposals being put forward on postal, remote, and electronic voting (Berdea and Salanțiu, 2010).<sup>23</sup>

<sup>17</sup> Available here: <http://www.cdep.ro/pls/dic/site.page?id=371>

<sup>18</sup> Available here: <https://legeaz.net/noul-cod-penal/>

<sup>19</sup> With different thresholds for the candidacy to the Chamber of Deputies or the bodies of local public administration (23 years), the Senate (33 years), and the presidency (35 years).

<sup>20</sup> Art. 40(3) – This includes judges of the Constitutional Court, the advocates of the people, magistrates, active members of the Armed forces, police officers, as well as other categories of civil servants.

<sup>21</sup> For an overview, see the description available at:

[http://www.electoralsystemchanges.eu/Files/media/MEDIA\\_167/FILE/Romania\\_summary.pdf](http://www.electoralsystemchanges.eu/Files/media/MEDIA_167/FILE/Romania_summary.pdf) and the official description provided by the Permanent Electoral Authority: [http://aceproject.org/en/regions/europe/RO/rom\\_electoral\\_system.pdf/view](http://aceproject.org/en/regions/europe/RO/rom_electoral_system.pdf/view).

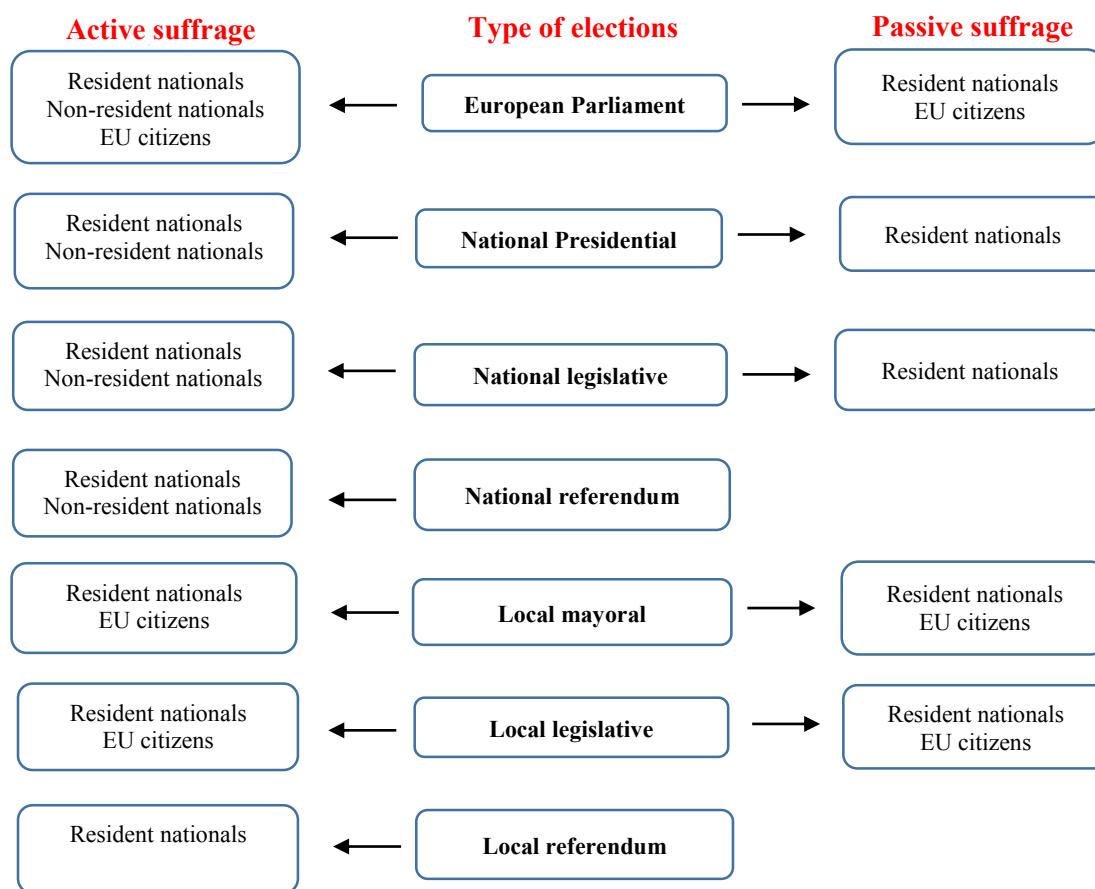
<sup>22</sup> With the exception of the 2003 referendum for the amendment of the Constitution, when electronic voting was allowed for a specific group of voters, namely the military staff and police officers on official missions abroad. For details, see the Emergency Ordinance 93/2003 available at: <https://lege5.ro/Gratuit/gq3teobx/ordonanta-de-urgenta-nr-93-2003-pentru-exprimarea-votului-prin-mijloace-electronice-la-referendumul-national-privind-revizuirea-constitutiei>.

<sup>23</sup> Detailed lists of arguments in favor and against these alternative voting methods have been provided. See, for example, the debate moderated by Mihai Chiru for Openpolitics in 2015; list of documents available at: <https://www.openpolitics.ro/discutii/ar-trebui-introdus-votul-prin-corespondenta/>

*Non-resident Citizens*

According to the current electoral legislation (Figure 4), the electoral rights of Romanian nationals residing abroad are still limited when compared to the electoral entitlements of citizens residing in the country. Non-resident nationals only hold the right to active suffrage and, unlike their resident counterparts, they cannot stand as candidates for elections held in Romania if they register their domicile abroad (the passive suffrage is conditioned upon having the domicile in the country (Article 16(3) of the 2003 version of the Constitution)).

Figure 4. Access to electoral rights for elections held in Romania, by type of elections and beneficiaries<sup>24</sup>



At this stage, it is important to note that according to Articles 86-88 of the Romanian Civil Code,<sup>25</sup> there is a distinction between domicile (*domiciliu*) and residence (*reședință*). While domicile refers to the place where a person has his/her main address, residence designates the place where individuals have their secondary address. Both places are registered as such in Romanian identity documents. The residential status is also recorded in the database of the Romanian Directorate for Persons Record and Databases Management<sup>26</sup> which collaborates with other public administration branches in organising the permanent

<sup>24</sup> Own elaboration from the GLOBALCIT database on electoral rights.

<sup>25</sup> Available here: <http://legislatie.just.ro/Public/DetaliiDocument/175630>

<sup>26</sup> Direcția pentru Evidența Persoanelor și Administrarea Bazelor de Date: [http://depabd.mai.gov.ro/index\\_eng.html](http://depabd.mai.gov.ro/index_eng.html)

population registers used for the elections. Romanian citizens who live abroad have the possibility to register as citizens with the domicile abroad,<sup>27</sup> but in this case, they lose the right to stand as candidates in Romanian elections.<sup>28</sup> Currently, a Romanian citizen who declares his/her domicile abroad is removed from the electoral roll of the territorial unit of reference in Romania and, consequently, does not have voting rights in local elections and local referenda.

The possibility to vote for non-resident nationals is restricted to specific types of electoral contests, namely national presidential elections, national legislative elections, EP elections, and national referenda.<sup>29</sup> Unlike resident nationals, non-resident nationals are excluded from active suffrage for all electoral contests organised at the sub-national level, namely local elections and local referenda. For parliamentary elections in particular, non-resident citizens count with special representation, with four geographical districts assigned for non-resident Romanians, electing four deputies and two senators (see detailed explanations in Section 3). In line with the 2015 legislative amendment (Article 42(2) of Law No. 288/2015),<sup>30</sup> non-resident citizens can register in the electoral roll in accordance to their domicile/residence abroad. The procedure requires a written request<sup>31</sup> to be submitted in person (at the consular or diplomatic missions of Romania abroad) or by post.<sup>32</sup>

### *Non-citizen Residents*

Since Romania has joined the EU, non-national EU citizens are entitled to vote and stand as candidates for EP and local elections organised in Romania, in compliance with the Council Directive 93/109/EC (transposed in Romanian law via Law 33 of 16<sup>th</sup> of January 2007, republished in 2014)<sup>33</sup> and Council Directive 94/80/EC (transposed in Romanian law via Government Emergency Ordinance 20 of 27<sup>th</sup> of February 2008 regarding the measures for the organisation of elections for the authorities of the local public administration; Law 67/2004 republished in 2014 on the elections for the authorities of the local public administration; and Law 115/2015 for the election of the authorities of the local public administration, for the amendment of the Law of local public administration 215/2001, and

<sup>27</sup> In order to do so, individuals must request a Romanian passport for Romanian Citizens Abroad (for details see: <https://www.mae.ro/node/1428>), while the Romanian identity card has to be handed over to the consular office.

<sup>28</sup> However, as Dumbrava (2013) highlighted in his study, the distinction between resident and non-resident citizens is far from being accurately translated into statistical databases. The address mentioned on Romanian identity cards does not always match with the actual address. This difference has been at the center of the political debate since the referendum of impeachment in 2007. Despite calls for more accurate statistical information, the need for more transparent and user-friendly administrative procedures for collecting residential data and updating electoral registers have not been properly addressed so far. Moreover, the absence of awareness programs calling on voters to perform checks on the electoral lists has been regularly criticized by OSCE/ODHIR Election Observation Missions and local NGOs. Until the implementation of the Information System of Monitoring the Voter Turnout (SIMPV) in 2016, accusations of fraud regularly hovered on the special electoral rolls and/or the electoral quorum in case of referenda (Dumbrava 2013).

<sup>29</sup> Presidential and EP elections are organized every 5 years, whereas the members of the national Parliament (comprising both the Chamber of Deputies and the Senate) are elected for a four-year term.

<sup>30</sup> Available at: [http://www.roaep.ro/vot\\_strainatate/assets/doc/Legea-288-pentru-completarea-Legii-208-2015.pdf](http://www.roaep.ro/vot_strainatate/assets/doc/Legea-288-pentru-completarea-Legii-208-2015.pdf)

<sup>31</sup> Template available at: [https://www.mae.ro/sites/default/files/file/anul\\_2016/2016\\_pdf/model\\_cerere\\_de-inscriere-in-registrul-electoral.pdf](https://www.mae.ro/sites/default/files/file/anul_2016/2016_pdf/model_cerere_de-inscriere-in-registrul-electoral.pdf)

<sup>32</sup> Voting is not mandatory according to the Romanian electoral system.

<sup>33</sup> Council Directive 93/109/EC is available here: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:31993L0109>. Law no 33 of 16 January 2007, republished in 2014, is available here: [http://www.roaep.ro/bec\\_europ2014/index8067.html?page\\_id=14](http://www.roaep.ro/bec_europ2014/index8067.html?page_id=14)

for the amendment of Law No. 393/2004 regarding the status of those who hold an elected office at the local level).<sup>34</sup> Yet, EU citizens are still the only group of foreigners entitled to vote for elections held in Romania, as the issue of the enfranchisement of third-country nationals has never reached the political agenda. For local elections, the registration of non-national EU citizens as voters is done via an automatic procedure. For EP elections, they must actively request their registration as voters. For both types of elections, mobile EU citizens are registered as voters on special electoral lists, as we will explain below.

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

### **2.1. Overview of Relevant Administrative Regulations**

Unlike the enfranchisement of non-resident nationals, the topic of the political participation of non-national residents has never become a particularly contested issue in Romanian politics. As previously mentioned, non-national EU citizens are the only group of foreigners allowed to vote and stand for elections held in Romania.

#### *EP Elections*

As a new EU Member State, Romania successfully implemented the arrangements specified in the Council Directive 93/109/EC on voting rights of non-national EU citizens for EP elections by the time of the 2007 elections, i.e. the first elections held in Romania for the members of the European Parliament. As previously mentioned, this has been done via Law 33/2007 republished in 2014 which allows non-national EU citizens above the age of 18 who have established their domicile or residence in Romania to vote in EP elections organised in Romania under the same conditions as national residents.

#### *Local Elections*

Similarly, Council Directive 94/80/EC regulating the electoral rights of EU citizens for local elections was also implemented shortly after Romania joined the EU. As discussed above, this has been done via the Government Emergency Ordinance 20/2008, Law 67/2004 republished in 2014, and Law 115/2015 that have enabled EU citizens above the age of 18 to vote for the first time for the Romanian local elections held in 2008. Local elections in Romania are organised to elect mayors and members of the city councils (the basic level of local government), as well as the members of the county councils (the intermediate level of local government).

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<sup>34</sup> Council Directive 94/80/EC is available here: <https://eur-lex.europa.eu/legal-content/LVN/TXT/?uri=celex:31994L0080>; The Government Emergency Ordinance no 20/2008 is available here: <http://legislatie.just.ro/Public/DetaliiDocumentAfis/90149>; Law 67/2004 republished in 2014 is available here: <http://legislatie.just.ro/Public/DetaliiDocument/50779>; Law 115/2015 is available here: <http://www.roaep.ro/legislatie/wp-content/uploads/2015/05/LEGE-Nr-115.pdf>

## 2.2. Voter Registration

### *EP Elections*

Article 12 of Law 33/2007 republished in 2014 stipulates that to be able to vote for EP elections held in Romania, non-national EU citizens who have their domicile or residence in Romania must actively request their registration as voters on the special electoral lists (*liste electorale speciale*). These lists are specifically designed for resident non-national EU citizens (unlike the permanent electoral lists – *liste electorale permanente* – which only include national residents entitled to vote in EP elections). The registration of EU citizens on these special electoral lists can be done via a specific application that they have to fill in and submit in person to the mayor of the municipality in which they reside, together with a proof of identity. The model of the registration form was approved by Decision No. 220 of February 2009 (amended by Decision No. 109 of 19 February 2014).<sup>35</sup> The registration form includes the personal details of the EU citizen who requests the voter registration (full name, gender, nationality, place of birth, date of birth, personal address in Romania, the municipality/electoral district in which the person was last registered on the electoral lists); and it has to be submitted to the local authorities at least 60 days prior to the election day. Once EU citizens have submitted their request for registration as voters, they must receive an official answer from the mayor of the municipality within a maximum of ten days.

Registrations are voluntary and remain valid for the following EP elections, unless an EU citizen is no longer resident in Romania (thus no longer meets the requirements for the right to active suffrage), or he/she expresses the intention to renounce the status of voter for EP elections held in Romania. However, the mere existence of this requirement of prior electoral registration for EP elections can act as an obstacle for the political participation of non-national EU citizens in Romania, especially since it may create confusion regarding the registration procedures given that mobile EU citizens are automatically registered as voters for the local elections held in Romania (see below). Furthermore, the fact that the Romanian public authorities and civil society organisations have not specifically targeted EU voters in their electoral awareness campaigns (which are generally oriented towards informing all voters about their electoral rights) could also be another factor that could negatively affect their participation in EP elections in Romania (see Section 2.5. below for statistics related to the voter registration for EP elections).

### *Local Elections*

As for the active suffrage for local elections, just like resident nationals, EU citizens must have their domicile in Romania or have resided in a Romanian municipality for at least three months to be able to vote in Romanian local elections. Unlike for EP elections, non-national EU citizens are automatically registered as voters for local elections on the complementary electoral lists (*liste electorale complementare*). In practice, this means that all those who are officially registered with the Romanian Immigration Office<sup>36</sup> are automatically registered as voters on this special electoral roll (Dumbrava, 2013). According to Article 23 of Law 115/2015, EU citizens who are not registered with the Romanian Immigration Office can still cast the ballot on the election day if they demonstrate at the polling station that they actually

<sup>35</sup> The registration model is available here: <http://legislatie.just.ro/Public/DetaliuDocument/103158> (version of 2009) and here: <http://legislatie.just.ro/Public/DetaliuDocumentAfis/155674> (version of 2014).

<sup>36</sup> All non-national EU citizens residing in Romania have the obligation to register with the Romanian Immigration Office after the first three months of residence in the country.

reside in the municipality in which they intend to vote. Several documents are admitted as sufficient proof of residence, including: a) sale or rental agreements concluded according to the Romanian legislation; b) a written declaration of the landlord confirming the EU citizen resides at the declared address; c) a sworn statement of the EU citizen accompanied by a verification note provided by a police officer confirming that the individual resides at the declared address (only if the individual cannot provide a proof of residence stipulated in the previous points a) and b)) or; d) a certificate issued by the city council according to which the EU citizen is officially registered in the Agricultural Register (*Registru Agricol*, only for individuals who reside in rural areas). To be able to vote, these EU citizens who were not previously included in the complementary lists are registered on the election day on the supplementary electoral lists (*liste electorale suplimentare*) of their respective municipalities. These supplementary lists are specifically designed for individuals whose names have not been included as voters on the permanent or complementary lists although they still meet all requirements for exercising the right to vote on the election day. Despite this good practice of the automatic electoral registration of non-national EU citizens as voters for local elections held in Romania, the absence of targeted information campaigns organised by public authorities or civil society organisations about the exercise of electoral rights could still negatively affect turnout for local elections.

### 2.3. Information during Election Campaigns

The Romanian authorities (mainly the Permanent Electoral Authority, hereafter referred to as PEA<sup>37</sup>) generally publish information regarding the registration/voting procedures before each election. In most cases, this information is available online in the form of electronic guides, brochures, etc., generally published in Romanian. With few exceptions, the electoral awareness campaigns organised in Romania have been mostly oriented towards informing all potential voters in general, rather than targeting non-national EU citizens in particular. Furthermore, these outreach activities do not generally focus on gender or different employment/status groups. In addition to this, the initiatives that the Romanian public authorities have put forward to inform non-national EU citizens about their electoral rights have been less frequent and more reduced in scope when compared to the information campaigns targeting non-resident nationals with voting rights for Romanian elections.<sup>38</sup>

As for the level of involvement of NGOs in terms of promoting the electoral rights of foreigners, it is important to note that the immigrant communities in Romania are not characterised by a strong organisation through migrant associations. Moreover, the Romanian NGOs working on migration-related issues<sup>39</sup> have developed integration projects mainly oriented towards third-country nationals, rather than EU citizens residing in Romania. Most of these initiatives have focused on the socio-economic integration of non-national residents, rather than their active participation in Romanian politics. None of the civil society

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<sup>37</sup> PEA is the national agency responsible for managing the electoral infrastructure between the elections.

During the elections, the main electoral agency is the Central Electoral Bureau (*Birou Electoral Central*) which is specifically constituted for each election.

<sup>38</sup> In general, the awareness-raising initiatives developed by the Romanian authorities have been more frequent and diversified for parliamentary and presidential elections than for elections held at the supranational or sub-national level.

<sup>39</sup> This includes, among others, the Romanian Office of the International Organization for Migration (IOM), the Romanian Forum for Refugees and Migrants (ARCA), the NGO Migrant in Romania (*Migrant in Romania*), Asociația CONECT (The Association CONNECT).

organisations interviewed for this study reported any specific outreach activities for informing EU voters about their electoral rights.

### *EP Elections*

The main institution to assume the responsibility of informing citizens and foreigners about their electoral rights in Romania is the Permanent Electoral Authority. For the 2009 EP elections, PEA published a brochure on their website with information regarding the right of EU citizens to stand as candidates for EP elections held in Romania, as well as a guide including explanations on how EU citizens can exercise their right to active suffrage for these elections (see PEA, 2009).<sup>40</sup> In addition to the awareness-raising campaigns organised by PEA, the Department for Interethnic Relations of the Romanian Government also published a short guide on how to vote in the 2014 EP elections. The guide included information for all potential voters (resident nationals, non-national residents and non-resident nationals) and was made available on their website in 17 different languages.<sup>41</sup> The Ministry of Internal Affairs (MAI) has also launched initiatives to inform all potential voters about their electoral rights, although most MAI campaigns have focused mainly on informing voters about the potential risks of not respecting the electoral legislation applicable for each election (see, for instance, the MAI campaign “Voteaza legal”/“Vote legally” organised for the 2014 EP elections<sup>42</sup>).

### *Local Elections*

Similarly, for the 2016 local elections, PEA also published a *Guide for voters* on their website, which explained the details regarding the exercise of electoral rights for all potential voters and candidates in general, although it also included the specific conditions under which EU citizens can vote and stand as candidates for these elections.<sup>43</sup> This initiative was accompanied by social media information campaigns (‘#voteazalocale2016’ – ‘#voteatlocalelections2016’), and the publication of booklets and leaflets with information regarding the local elections. For the 2012 local elections, the Electoral Authority also published an electronic guide specifically dedicated to non-national EU citizens, informing them about the requirements for accessing the right to active and passive suffrage in Romania. The guide was published in an electronic version in Romanian and English on the PEA website and was accompanied by a video clip promoted by the main Romanian TV station with information regarding the voting rights of foreigners and resident nationals for these electoral contests (PEA, 2012).<sup>44</sup> Apart from PEA, the Ministry of Internal Affairs has also informed all potential voters about their electoral rights for local elections. However, just like for EP elections, most MAI campaigns for local elections generally focused on drawing attention on the sanctions for not respecting the electoral legislation (see, for instance, the

<sup>40</sup> Report on the election of the representatives of Romania in the European Parliament of 7<sup>th</sup> of June 2009, available here: <http://www.roaep.ro/biblioteca-virtuala/rapoarte/>

<sup>41</sup> See: <http://www.dri.gov.ro/ghidul-alegatorului-alegeria-membrilor-din-romania-in-parlamentul-european/>

<sup>42</sup> MAI awareness campaigns are available here: <http://www.comunicare.mai.gov.ro/campanii/index.php>

<sup>43</sup> *Ghidul alegatorului la alegerile locale din 5 iunie 2016*, available at: <http://www.roaep.ro/legislatie/wp-content/uploads/2016/05/Ghidul-alegatorului-la-alegerile-locale.pdf>

<sup>44</sup> Report on the organization of elections of June 2012 for the local public administration, available here: <http://www.roaep.ro/biblioteca-virtuala/rapoarte/>

MAI campaigns “Tu votezi, MAI te informeaza” – “You vote, MAI informs you” for the 2016 local elections<sup>45</sup>).

## 2.4. Political Parties and Candidacy Rights

To our knowledge, none of the mainstream political parties in Romania have put forward any specific activities during their electoral campaigns to target non-national EU voters, nor have they adopted proactive stances in terms of reaching out to the non-national electorate between elections.<sup>46</sup> Given the rather limited demographic presence of non-national EU citizens in Romania, the topic of their political engagement has not received salience in political debates, unlike the heated debates concerning the political participation of non-resident nationals. Consequently, there is a general silence among Romanian political parties regarding the electoral rights of foreigners (either EU citizens or third-country nationals).

Despite this, it is interesting to note that, after non-national EU citizens were granted electoral rights in Romania, some political parties have adapted their party statutes to include specific provisions regarding the possibility for EU citizens to become party members. By way of example, Article 13 of the party statute of the Social Democratic Party (PSD, the main parliamentary party in Romania) stipulates that under the same conditions as Romanian nationals, EU citizens who do not hold Romanian citizenship but are domiciled in Romania can become PSD members.<sup>47</sup> A similar provision is also stipulated in Article 7(1) of the newly created Save Romania Union, USR.<sup>48</sup> Yet, no similar references to EU citizens as party members were found in the case of the National Liberal Party (PNL)<sup>49</sup> or the People’s Movement (PMP).<sup>50</sup>

The conditions for registering as a non-national candidate vary depending on the type of election, as explained below.

### *EP Elections*

Just like resident nationals, to stand as candidates for EP elections held in Romania, non-national EU citizens must be at least 23 years old, have their residence and domicile in

<sup>45</sup> Available here: <http://www.comunicare.mai.gov.ro/campanii/index.php>

<sup>46</sup> However, it is also worth mentioning the case of some political associations representing ethnic minorities which have been successful in terms of obtaining parliamentary representation and are generally campaigning for specific groups of EU voters/ethnic minorities. Examples in this regard could be the Democratic Forum of Germans in Romania (*Forumul Democrat al Germanilor din Romania*, FDGR, <http://www.fdgr.ro/>); the Union of the Polish community in Romania (*Uniunea Polonezilor din Romania*, <http://dompolski.ro/>), the Association of Italians in Romania (*Asociatia Italianelor din Romania*, <http://roasit.ro/ro/>), the Hellenic Union in Romania (*Uniunea Elena din Romania*, <http://www.uniunea-elena.ro/>), or the Democratic Union of Hungarians in Romania (*Uniunea Democrata Maghiara din Romania*, UDMR, <http://www.udmr.ro/>). These associations are currently represented in the Romanian Parliament- see: <http://www.cdep.ro/pls/parlam/structura2015.fp?idl=1&cam=2&leg=2012>

<sup>47</sup> Available at: <https://www.psd.ro/despre/statut>

<sup>48</sup> Available at: <https://www.usr.ro/statut/#capitolul3>

<sup>49</sup> Article 15 of the PNL party statute stipulates that any Romanian citizen with voting rights who fulfils certain conditions listed in the statute can become a party member: <https://pnl.ro/despre-noi/documente-fundamentale/statut>

<sup>50</sup> Article 10 of the PMP party statute stipulates that may become a party member any Romanian citizen who, regardless of race, gender, ethnic origin or religious beliefs, has the right to vote and fulfils the additional conditions listed in the party statute, <https://pmponline.ro/documente-pmp-18065>.



Romania and not be disqualified from electoral rights. When submitting their candidacy for EP elections held in Romania, non-national EU citizens must also submit a written declaration stating that they will not stand as candidates for EP elections in another EU Member State<sup>51</sup> and a form signed by the competent authorities of his/her country of nationality which proves that the candidate has not been deprived of the candidacy right in the Member State of nationality. Moreover, according to Articles 8.2 and 9.1 of Law 33/2007 republished in 2014, EU citizens who hold certain positions in their EU countries of origin cannot hold the position of MEPs for Romania. This includes those who hold positions as judges of constitutional courts, advocates of the people, active members of the Armed Forces, members of the police, members of national parliaments or governments or other categories of public servants (resident nationals who hold these positions in Romania are also excluded as eligible candidates for EP elections).

### *Local Elections*

As for local elections, Law No. 115/2015 stipulates that EU citizens have the right to stand as candidates for local elections under the same conditions as resident nationals (Article 5.1) and can hold the position of mayor, local councillor and member of the county council (Article 5.2).<sup>52</sup> Just like resident nationals, EU citizens can only stand as candidates in the administrative territorial units in which they have their domicile (Article 56 of Law 115/2015). However, unlike their national counterparts, EU citizens who wish to stand as candidates for local elections must also submit a formal declaration according to which they have not been deprived of their right to passive suffrage in the country of nationality, and that they do not hold any public office in the home country which might be considered incompatible with holding a public office in Romania. For the 2016 local elections, 53 candidacies of non-national EU citizens were registered, out of which six were for mayoral elections, 39 for the elections of the members of local councils, and eight for the elections of the members of county councils (BEC, 2016).<sup>53</sup> The Romanian media also reported on some cases of EU citizens who stood as candidates for the 2012 local elections.<sup>54</sup>

## **2.5. Turnout**

### *EP Elections*

Figure 5 shows that, for the first EP elections held in Romania in 2007, only five non-national EU citizens registered to vote on the special electoral lists, all of whom went to the polling station on the election day.<sup>55</sup> The number of EU citizens who registered to vote on the special electoral lists only slightly increased to 84 individuals for the 2009 elections (out of which 18

<sup>51</sup> Available here: <http://legislatie.just.ro/Public/DetaliiDocumentAfis/155674>

<sup>52</sup> However, for the 2012 elections, mobile EU citizens residing in Romania could only be elected as local or county councillors, but they could not hold the position of mayor.

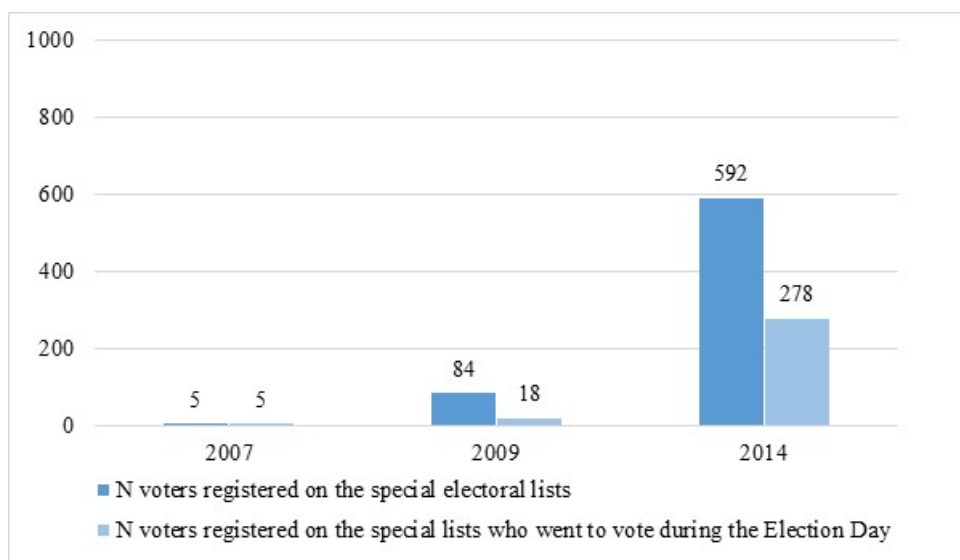
<sup>53</sup> Overall, 40 non-national EU citizens stood as candidates for these local elections, although some of them presented their candidacy for several elected offices at the same time (mayor, local councillor and county councillor). The detailed statistics of non-national EU citizens who stood as candidates for the 2016 local elections are available here: <http://www.2016bec.ro/statistici/index.html>

<sup>54</sup> Among which several Italian and German citizens: <http://www.gandul.info/politica/alegeri-locale-2012-cetatenii-comunitari-care-vor-sa-schimbe-romania-italieni-la-ciucurova-si-suceava-germani-in-timis-9717806>

<sup>55</sup> Two German citizens, one French, one Italian and one Greek have submitted their request to be registered as voters for the EP elections held in 2007. See: [http://www.roaep.ro/bec\\_eu\\_07/index787c.html?page\\_id=11](http://www.roaep.ro/bec_eu_07/index787c.html?page_id=11)

voted);<sup>56</sup> and to 592 for the 2014 EP elections (out of which 278 voted).<sup>57</sup> According to a report published by PEA on the 2009 EP elections,<sup>58</sup> some cases of erroneous registrations of individuals were identified on the lists for foreign voters in the Braila region. In the same report, PEA also provided information about some cases in which the legal conditions *vis-à-vis* the exercise of electoral rights of EU citizens were not recognised (in Bucharest).

Figure 5. Non-national EU citizens registered to vote for EP elections in Romania, since 2007<sup>59</sup>



### Local Elections

For the local legislative and mayoral elections held in Romania in 2016, 40,846 EU citizens were registered on the complementary electoral lists, out of which only 1,713 cast the ballot.<sup>60</sup> No major issues were identified regarding the registration of EU citizens for local elections (see PEA Reports).<sup>61</sup>

<sup>56</sup> See: <http://www.bec2009pe.ro/>

<sup>57</sup> See also: [http://www.roaep.ro/bec\\_europ2014/index2001.html](http://www.roaep.ro/bec_europ2014/index2001.html) and <http://www.roaep.ro/legislatie/rapoarte/>

<sup>58</sup> Available here: [www.roaep.ro/legislatie/wp-content/uploads/.../raport\\_europarlamentare\\_2009.pdf](http://www.roaep.ro/legislatie/wp-content/uploads/.../raport_europarlamentare_2009.pdf)

<sup>59</sup> Own elaboration with data from the Central Electoral Bureau, <http://www.roaep.ro/istoric/>

<sup>60</sup> Electoral results available here: <http://www.2016bec.ro/rezultate-finale-5-iunie-19-iunie/index.html>

<sup>61</sup> All reports available here: <http://www.roaep.ro/istoric/>

### 3. Non-resident Citizens' Franchise in National and EP Elections

Although non-resident nationals have been enfranchised since the early days of post-communism, the topic of their political participation has only become particularly salient since the mid-2000s. Despite practical difficulties, external voting has had a strong impact on the electoral results in several occasions. For instance, the community of Romanian citizens residing in Moldova demonstrated a strong voting loyalty to Traian Băsescu for the 2004 and 2009 presidential elections, thus substantially contributing to his electoral success (Knott, 2017; Burean, 2011). In 2009, given this overwhelming electoral support received by non-resident citizens, Băsescu won the second round of the elections with a minimal lead of around 70,000 votes over the social-democratic candidate, Mircea Geoană, who won more votes in Romania (NIT Report Romania, 2010). Similarly, in the second round of the 2014 presidential elections, Klaus Iohannis won the elections with 6,288,769 votes, out of which 338,873 came from non-resident citizens (300,095 more votes than the PSD candidate, Victor Ponta, received from non-resident citizens).<sup>62</sup> All in all, since the 2000s, non-resident citizens have regularly been a subject of political debates. The relatively low turnout of non-resident Romanians for national and EP elections has generally been portrayed as a sign of electoral apathy towards home country politics, and furthermore has been used as an argument for their potential disenfranchisement.

#### 3.1. Overview of Relevant Administrative Regulations

As mentioned above in section 1.2., Romania grants voting rights to non-resident citizens for national legislative elections, presidential elections, national referenda, and EP elections. Each type of election is regulated by different legal texts and extensive secondary legislation.<sup>63</sup> There is a recurrent practice of amending electoral laws shortly before elections, which makes the administrative regulations applicable for non-resident citizens even more complicated. These amendments have been motivated by the declared concern to define meaningful political alternatives, namely fewer parties in Parliament and/or narrow coalitions (both in Parliament and in government) (Popescu and Soare, 2018). The most recent example in this regard is the massive change in the legislation dating back to 2015.<sup>64</sup> The issue of non-resident voters had been peripheral until 2014, although different amendments have concerned this specific group of voters (i.e. the post-2008 constituency for the Romanian diaspora).

<sup>62</sup> PEA Database, available at: <http://alegeri.roaep.ro/>.

<sup>63</sup> An updated list of the regulations on elections in Romania is available at: <http://www.roaep.ro/legislatie/legislatie-electoral/>

<sup>64</sup> Different legal texts affecting the electoral process have been amended and completed: Law No. 208/2015 on the election of the two chambers of the Parliament; Law No. 114/2015 on the amendment and completion of Law No. 14/2003 on political parties; Law No. 113/2015 for amending and completing Law No. 334/2006 on funding political parties' activities and electoral campaigns; Law No. 115/2015 on the election of the local public administration authorities, amending the Local Public Administration Law No. 215/2001, as well as the Law No. 393/2004 on the status of local elected representatives; Law No. 208/2015 on the election of the Senate and the Chamber of Deputies, as well as for the organisation and functioning of the Permanent Electoral Authority; and Law No. 288/2015 on voting by correspondence, as well as for the amendment and completion of Law No. 208/2015.

### *National Parliamentary Elections*

From 1992 until 2004, on the basis of proportional representation with closed lists, non-resident Romanian citizens were allowed to cast their votes in person at the polling stations organised at Romanian diplomatic missions and consular offices (Article 20 of Law No. 68/1992, Article 17 of Law No. 373/2004). At their request, non-resident Romanian citizens were included in the permanent electoral lists in the locality in which they were born or in which they had their last residence in Romania (Article 8(1) of Law No. 68/1992). Otherwise, they were entitled to vote at the different polling stations organised abroad (generally, one per country in the capital city). These ballots were counted among the votes for the Bucharest constituency.

In 2008, a major reform introduced a mixed electoral system combining voting in single-member constituencies with a complex system of seat allocation for parties that surpass the electoral threshold. In this context, Romania adopted the so-called “discrete representation model” (Spiro 2006) allowing external voters to form separate constituencies to elect their representatives. A constituency for Romanians living abroad was added to the 42 existing constituencies, thus allowing non-resident citizens to elect four deputies and two senators. Four colleges were designated for the Chamber of Deputies (Western Europe, Eastern Europe-Asia, USA-Canada, and Africa) and two colleges were established for the Senate (Europe-Asia, and USA). These constituencies were geographically divided and did not take into account the number of Romanian citizens residing in the various countries and regions covered.<sup>65</sup> Before 2008, Romanians living abroad could only vote in person based on a valid Romanian identity document. Starting from the 2008 parliamentary elections, additional documents were required to prove the residence abroad (Law No. 35/2008).<sup>66</sup>

In 2015, Law No. 208/2015 marked the return to a party-list proportional system,<sup>67</sup> with elections being organised in 43 multi-member constituencies corresponding to the 41 counties, the municipality of Bucharest, and the constituency for the diaspora (Article 4).<sup>68</sup> A key innovation of the system introduced in 2015 was the option of postal voting for non-resident Romanians (Article 33(4) & (5) Law No. 208/2015 and Law No. 228/2015 initiated by PEA for the 2016 parliamentary elections, with a potential extension for the 2019 EP and presidential elections).<sup>69</sup> Furthermore, considering the thorny issue of the number of polling stations for the 2014 presidential elections, Law No. 208/2015 also stipulated the possibility to organise additional polling stations abroad at the request of at least 100 voters living in locations far from the existing polling stations in embassies, consulates, or cultural institutes.<sup>70</sup>

<sup>65</sup> See also Romania 2012 Parliamentary elections, OSCE/ODIHR Election Expert Team Final Report (2012).

<sup>66</sup> According to art. 27 (2<sup>1</sup>), non-resident citizens can cast their ballot on the basis on a document of identity. Citizens with domicile abroad can show a passport mentioning their domicile abroad. Citizens with residence abroad can show a simple passport, and in case they reside on the territory of an EU Member State, the identity card accompanied by a document issued by local authorities certifying the residence abroad.

<sup>67</sup> A list of the legal texts regulating the organization of the 2016 elections is available at:

<https://www.mae.ro/node/38742>

<sup>68</sup> The number of legislative seats assigned to the 43rd district of Romanians abroad remained unchanged. Critical voices pinpointed to the fact that Romanian diaspora was underrepresented. Jigla (2016) pointed out that six seats were assigned to Covasna, a very small county with 184,212 voters in 2014, and a population of 206,261 according to the 2011 census.

<sup>70</sup>With regard to 417 polling stations available for the 2016 parliamentary elections, 193 polling stations were organized by the Romanian embassies, consulates and cultural institutes abroad. 217 additional polling stations represent proposals motivated by the Ministry of Foreign Affairs, and 7 polling stations (1 in UK, 4 in the Republic of Moldova, and 2 in Spain) were organized at the request of at least 100 Romanian citizens

### *Presidential Elections*

According to the Constitution (Articles 81 and 83), the President of Romania is directly elected on the basis of a majority run-off electoral system for a five-year mandate. Since the adoption of Law No. 69/1992 for the election of the President, the legal dispositions regulating the voting rights of non-residents have been synchronised with the regulations applied for electing the members of the national Parliament, on the basis of the same list of voters.<sup>71</sup> According to Law No. 370/2004,<sup>72</sup> just like for parliamentary elections, the polling stations for Romanians abroad can be organised in localities other than those in which the Romanian diplomatic missions are located, upon agreement with the host countries' authorities. On this ground, the Government Emergency Ordinance (GEO) 45/2014 raised numerous criticisms among NGOs.<sup>73</sup> The National Liberal Party (PNL) contested the GEO before the Constitutional Court.<sup>74</sup> In the aftermath of the first round of the 2014 presidential elections, the media highlighted the high number of voters registered on supplementary lists (965,022 individuals voted at a polling station different to those indicated on the electoral register) (Ionaşcu, 2014). The media also reported long queues outside numerous polling stations across Europe, with large numbers of non-residents being unable to cast their ballots. In particular, the tension rose after the government's failure to open additional polling stations for non-residents abroad, with clashes between voters and the local police and even symbolic occupation of Romanian embassies (NIT Report Romania, 2015).

### *National Referenda*

The enfranchisement of non-residents also applies for national referenda. There are three matters on which national referenda can be held (Article 2(1) Law No. 3/2000):<sup>75</sup> the revision of the Constitution, the impeachment of the President, and matters of national interest. The rules for organising referenda are similar to those regulating legislative elections. Non-resident Romanian citizens have already voted in person at the polling stations located in diplomatic or consular offices in their countries of residence/domicile on several occasions.<sup>76</sup> Their vote proved to be particularly important for the 2007 and 2012 referenda for the impeachment of the President. As illustrated by Dumbrava (2013), the non-residents' enfranchisement has been overtly challenged by the supporters of the impeachment, in particular when considering that non-participation had an impact on the calculation of the electoral quorum for validating the results.

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(<http://www.mediafax.ro/politic/alegerile-parlamentare-in-diaspora-doua-milioane-de-buletine-de-vot-417-sectii-se-voteaza-timp-de-36-de-ore-16019109>).

<sup>71</sup> In 2009, for the first time, presidential elections were held without having to choose also the members of the Parliament.

<sup>72</sup> Version available at: <http://www.roaep.ro/legislatie/wp-content/uploads/2013/03/LEGEA-Nr.-370-20041.pdf>

<sup>73</sup> The main changes focused on simplified documents required for voting (art. 1 (1)), the deadline for submission of candidatures (art. 1 (11)), and facilitated conditions for voting in polling stations different from those indicated in the electoral rolls (art. 1(15)). Several NGOs contested both the timing and the content of the GEO (i.e. increased risks for multiple voting) and wrote to the country's ombudsman (complaint available at: <https://expertforum.ro/sesizare-oug45/>).

<sup>74</sup> The Court rejected the complaint. See Decision no.460/2014.

<sup>75</sup> Amended version available at: <http://www.roaep.ro/legislatie/wp-content/uploads/2013/03/LEGE-Nr.-3-2000.pdf>

<sup>76</sup> The 2003 constitutional referendum (approved), the 2007 mandatory referendum for the deposition of president Băsescu (rejected), the 2007 referendum for changing the electoral system (invalid for low turnout), the 2009 referendum for the reform of the Parliament (approved), and the 2012 referendum for the deposition of president Băsescu (invalid, low turnout).

### *EP Elections*

EP elections are organised on the basis of proportional representation in a single electoral constituency (Article 4(1) & (2) Law No. 33/2007). Romanian citizens who have domicile in Romania are automatically registered on the electoral rolls. Romanians residing abroad, once they have registered to vote for EP elections in another EU Member State, are removed from the permanent electoral lists for EP elections held in Romania. Non-residents that have not signed up to vote for EP elections held in a different EU Member State may vote for the Romanian members in the European Parliament (Article 46(5)).

### **3.2. Voter Registration**

Since the early 1990s, Romania has implemented a so-called passive voter registration system for all elections, with data provided by the Directorate for Persons Record and Databases Management managed under the supervision of the Ministry of Internal Affairs. The civil register (*Registrul National de Evidenta a Persoanelor – National Register for the Evidence of the Population*) is updated on a regular basis with data concerning Romanian citizens domiciled in the country. The General Directorate for Passports (DGP) and the different administrative-territorial units also contribute to this regular update of the civil register. Concerning non-residents, the update procedures integrate centralised data from the EU level, as well as data from national authorities.<sup>77</sup> In collaboration with the Directorate for Persons Records, the PEA manages the voter registration procedure for both national and EP elections. Since 2014, the PEA oversees the centralised electronic register.<sup>78</sup> Voters can access their records either online or in person and can request to update or modify their personal data.

To prevent multiple voting, for the 2016 parliamentary elections the PEA also introduced an electronic system of voter verification: on the election day, voters were asked to show their identity cards to allow computer operators to register the identification parameters by using either the optical character recognition of the machine-readable zone of the identity cards or manually for traditional paper documents (Chesaru, 2017). This procedure normally lasts between 10 to 30 seconds and it aims to check if the voter has the right to vote in that specific polling station (Chesaru 2017, p. 40). Due to the limited duration of this authentication process, this requirement has not been seen as a practical obstacle.

Beyond these general aspects, there are some administrative procedures exclusively concerning non-resident citizens. According to the amended version of Law No. 208/2015, in the year in which parliamentary elections are held, non-resident Romanians with domicile/residence abroad can register to be included on the electoral roll from 1 April of the respective year (in the case of upcoming elections) up to 48 hours prior to the starting of the electoral period (i.e. the date of entry into force of the Government Decision on the election date) with the address from abroad. This registration amends the data included in the automatic registration. Non-resident citizens have to submit a written request to the diplomatic mission in the host country (in person or by post), including the full name and personal numerical code, as well as copies of the identity document and the document proving the residence abroad (issued by host country authorities) (Article 42(2), Law No. 208/2015). Accordingly, they are included on the permanent lists for the diaspora (Article

<sup>77</sup> See for instance the report concerning the voters registration for the 2014 EP elections available at: <http://www.roaep.ro/legislatie/wp-content/uploads/2015/06/RAPORT-EUROPARLAMENTARE.pdf>

<sup>78</sup> See <https://www.registrulectoral.ro/>

49(2)). Non-resident citizens who are not included on these lists are still entitled to vote as the legal framework also allows for supplementary voters lists (*listele electorale suplimentare*) to be drafted on the election day. These supplementary lists contain information on all Romanian citizens that were not included on the above-mentioned permanent lists and can prove having their domicile or residence abroad.<sup>79</sup>

A potential obstacle for the voting rights of non-residents is that fact that Romanian citizens domiciled abroad who are in Romania on election day cannot vote in polling stations in Romania. This limitation is justified as a mechanism for preventing multiple voting, considering that it is possible to imagine a situation in which non-residents could cast their votes in one of the polling stations in the host country and then travel to cast a second vote on the same day in Romania. With the exception of the non-residents in territories near the Romanian border who would incur only limited travel costs (i.e. the Republic of Moldova, Hungary, Bulgaria), however, such frauds would be extremely costly for other non-resident citizens in countries that do not border Romania. Moreover, the 2016 implementation of the Information System of Monitoring the Voter Turnout and of Preventing Illegal Vote is supposed to prevent such illegal behaviour.

To be able to vote by post, non-resident voters must enrol in the electoral registry via an application submitted in person, delivered by post or email to the Romanian diplomatic mission or consular office in their country of residence. The application needs to be accompanied by a copy of the passport with the mention of the country of residence or, in the case of Romanian citizens domiciled abroad, a copy of the identity document and of a document proving the right of residence issued by the foreign authorities. No later than 30 days before the election day, the Romanian postal service sends an envelope with the confirmation of receipt containing the necessary documents for voting. In case of confirmed receipt of the documents for postal voting, the non-resident citizen can no longer cast the vote at any polling station. In case of a last-minute change of plans, this provision can be seen as a potential obstacle to the political participation of non-resident voters. However, this provision is meant to prevent breaches in the transparency of the system and avoid potential cases of multiple voting. In cases of failed receipt of the documents, damaged or stolen documents, the voter must inform the PEA within 20 days before the election day; and he or she is then entitled to vote in other polling stations. According to PEA,<sup>80</sup> 4,197 Romanian citizens with their domicile or residence abroad have chosen traditional voting in one of the polling stations organised by diplomatic missions, and 8,889 have requested to have access to postal voting (data updated to November 2016). These figures remain low compared to the 604,642 Romanian citizens residing abroad in possession of a simple electronic passport for Romanian citizens residing abroad (CRDS) (*Direcția comunicare și relații externe*, 2016).

It is also important to mention the relatively intense awareness-raising campaign regarding the voting rights and voting methods for the Romanian diaspora. These outreach activities have included the entire network of Romanian embassies, consulates, cultural institutes, etc. with different types of materials (YouTube videos, electronic guides, FAQ lists, etc.). The information provided in Romanian was not targeted to specific groups of voters (with the exception of a guide for first time voters: ‘The Guide of the Young Romanians Living Abroad for the 2016 Parliamentary Elections’<sup>81</sup>). Different CSOs have

<sup>79</sup> These lists also include the staff of the diplomatic missions (including consulates and cultural institutes), the members of the electoral bureau and the computer operators (if they have their domicile or residence abroad), the candidates for diaspora constituency, and those in charge with maintaining order (if they have their domicile or residence abroad) (art. 51 (3) a-f)).

<sup>81</sup> Available at: <http://www.primulvot.ro/wp-content/uploads/2016/11/Ghidul-tinerilor-romani-din-tara.pdf>

also been active in this area, complementing the official information provided by the institutional network. Based on a survey related to the current report, representatives of CSOs have indicated a wide range of activities deployed on the ground with the aim of mobilising Romanian voters abroad. Among the different activities mentioned, there were personal meetings, paper materials (i.e. booklets, flyers, etc.), websites, social media pages, radio/TV ads, and newspaper stories. Our respondents have indicated the Orthodox Church as an important diffuser of information within the Romanian community of non-residents. In the same area, both the national media and diaspora-based media<sup>82</sup> have dedicated space and resources to debating and providing information about the changes in the legislation. There have been also technical comments provided by online websites specialised on juridical issues.<sup>83</sup> However, as in the case of the official campaigns, all of these sources of information were deployed, almost exclusively, shortly before the elections. From our understanding, this is a major limitation with regard to the shared aim of mobilising beyond ‘the community of usual voters’ (i.e. those resident in main cities, educated voters, etc.).

A last element has to be mentioned: postal voting was tested during the 2016 parliamentary elections. It is yet unclear if the legislator aims to extend its application to the 2019 EP and presidential elections.

### 3.3. Turnout

During the past two decades, Romania has registered an abrupt decline in the overall turnout, especially for parliamentary elections, and referenda.<sup>84</sup> Yet, this low level of participation is far from an exception among post-communist countries (Iancu and Soare, 2016). For EP elections, the overall turnout also decreased from 29.5% in 2007 to 27.7% in 2009; although it increased again in 2014 (32.4%). A similar pattern can be identified in the evolution of the turnout of non-residents in EP elections: 22,557 in 2007 (0.42% of the overall number of voters), 14,330 (0.28%) in 2009, and 30,248 in 2014 (0.51%). Presidential elections have generally triggered a higher interest for national residents and, starting with the 2009 presidential elections, the level of participation of non-residents has also increased.<sup>85</sup> However, when compared to the size of the Romanian diaspora, external voting rates have been lower than the domestic ones, thus confirming the pattern of low electoral engagement amongst non-resident nationals already confirmed in previous studies (see, for instance, Ciornei and Østergaard-Nielsen, 2015; Lafleur, 2013).

As shown in Figure 6 below, external voters have generally represented a very small share of the total number of voters for elections held in Romania (i.e., 1.5% for the 2016 parliamentary elections, 3.2% for the 2014 runoff). Generally speaking, the data points towards a slight increase in the number of non-residents who actually voted over time. However, the increase in the size of the Romanian community residing abroad has not led to increased levels of electoral participation. Figure 6 shows that although the number of non-resident voters increased over time, it still remains very low when considered as a percentage of the total number of voters.

<sup>82</sup> See <https://www.gazetadespania.es/ghidul-alegatorului-pentru-votul-prin-corespondenta/>

<sup>83</sup> See <https://www.avocatnet.ro/t1626/vot-prin-corespondenta.html>

<sup>84</sup> Over the period 1990-2016, the average turnout rate was 56.7% for parliamentary elections (data referred by the Chamber of Deputies), 44.77% for the national referenda and 29.86% for EP elections.

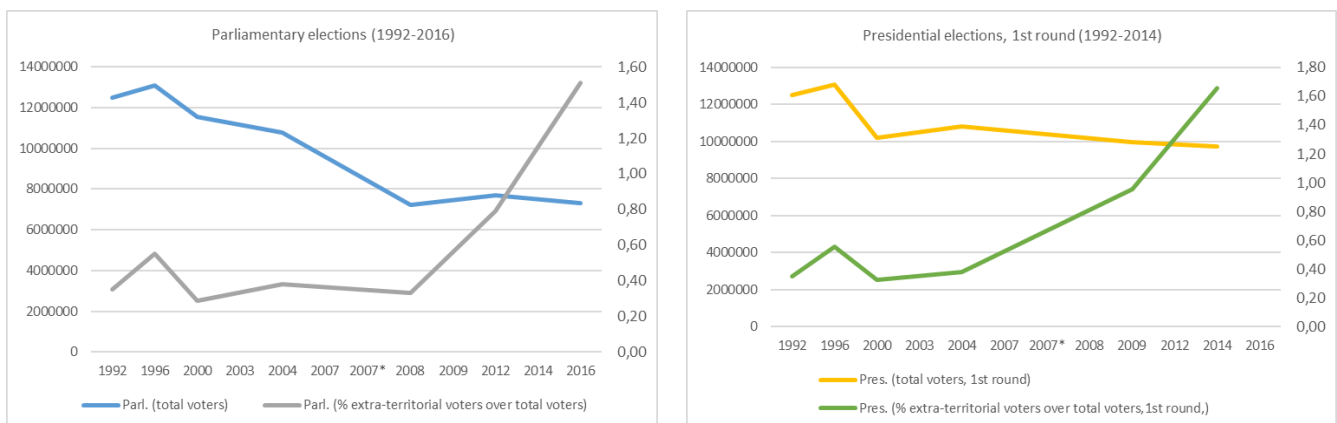
<sup>85</sup> The average turnout rate for presidential elections (first round) was 62.64% for the period 1992-2014. The second round of presidential election returned an average turnout rate of 65.3%.



Despite regular amendments in the legal framework and diversified campaigns to raise awareness,<sup>86</sup> non-residents do not turn out to the polls in large numbers. Nonetheless, external voting has still had a relevant impact on the outcome of the elections during the last years (i.e., the presidential runoff in 2009 and 2014, or the quorum issue for the 2012 referendum), generally favouring centre-right parties and their candidates. This last element explains the relatively higher level of interest among the Romanian centre-right parties in organising at the level of the diaspora (i.e., the case of the organisations based in Spain for the liberal party (PNL) and the PMP). More broadly, it is also worth mentioning that Romanian parliamentary parties have started to specifically target non-resident voters especially in the aftermath of the 2008 electoral reform. In doing so, several Romanian parties have amended their statutes to regulate diaspora-based organisations.

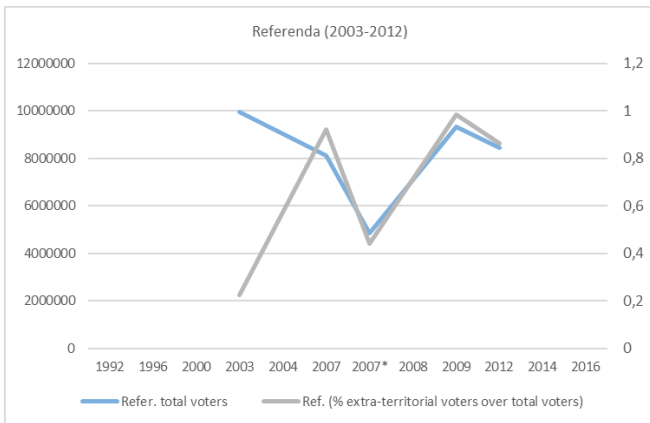
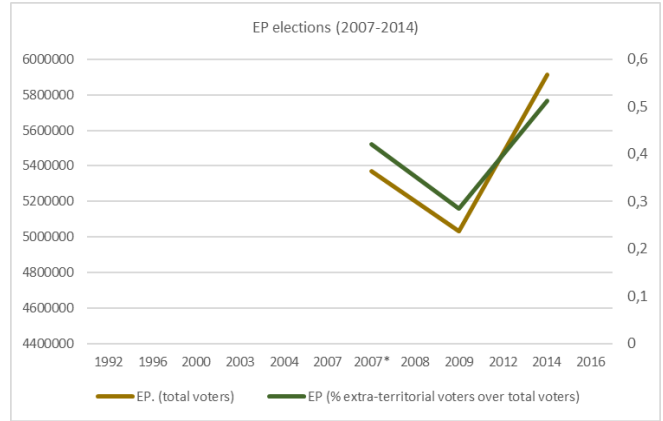
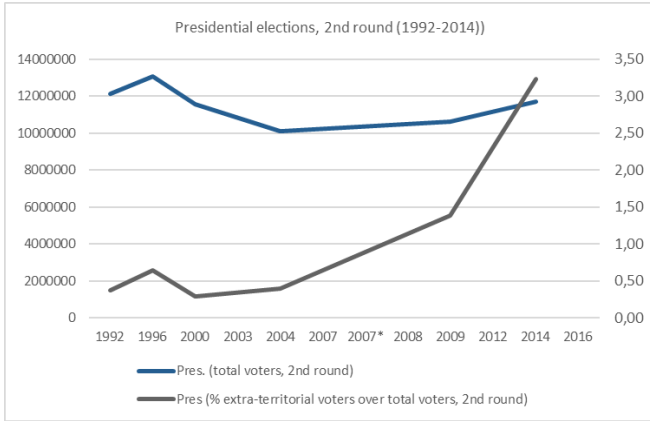
From previous research in the field, interviews with representatives of these diaspora-branches have pinpointed proto-forms of organisations available since the early 2000s, in particular with regard to the Social Democrats (PSD) and the Democratic Party (then known as the Liberal Democratic Party – PDL, currently known as the National Liberal Party – PNL). In most cases, these proto-organisations and the post-2008 codified branches were built around non-resident individual political entrepreneurs who capitalised on their contacts in Bucharest and their knowledge of the host countries. Interestingly, these local leaders have used their political involvement in the country of residence to build bridges between the party in the home country and sister parties in the host countries. This is the case, for instance, for the Spanish People’s Party and the Romanian PDL, or the Italian Democratic Party (PD) and the Romanian PSD. However, over time and across parties, these diaspora-based organisations were active mainly during the election period, with limited activities between elections. In our understanding, this is a potential explanation for the low turnout despite a burgeoning network of diaspora-based party organisations.

Figure 6. Evolution of the number of voters in elections held in Romania, by type of voters and elections, 1992-2016 (total voters and per cent of extra-territorial voters over total voters)<sup>87</sup>



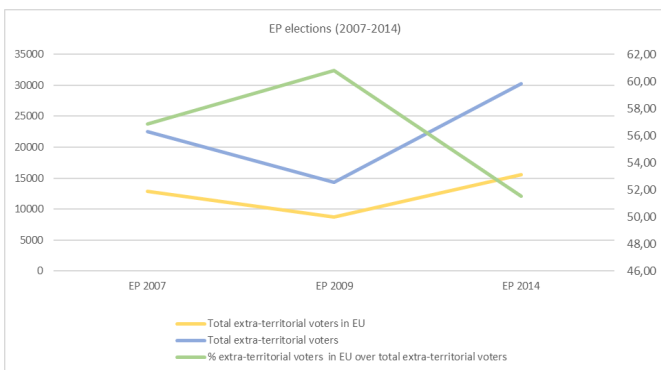
<sup>86</sup> For the 2016 local elections, PEA launched a broad information campaign on postal voting and, more in general, on the administrative procedures for non-resident voting (i.e. two information clips available on PEA webpage, on the official Facebook page, as well as on PEA’s Youtube channel, an electronic guide for voting, an open letter for non-residents, etc.). All documents are available at: <http://www.primulvot.ro/stire/scrisoare-deschisa-adresata-alegatorilor-romani-din-afara-tarii/>.

<sup>87</sup> Own elaboration with data from the Central Electoral Bureau, <http://www.roaep.ro/istoric/>

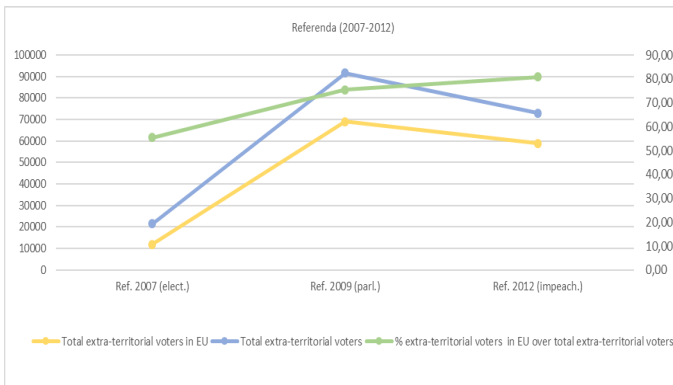
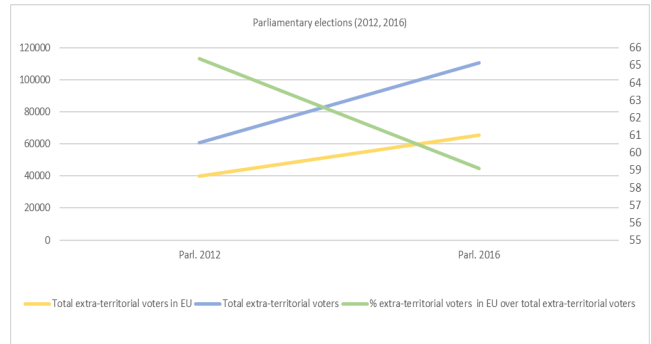
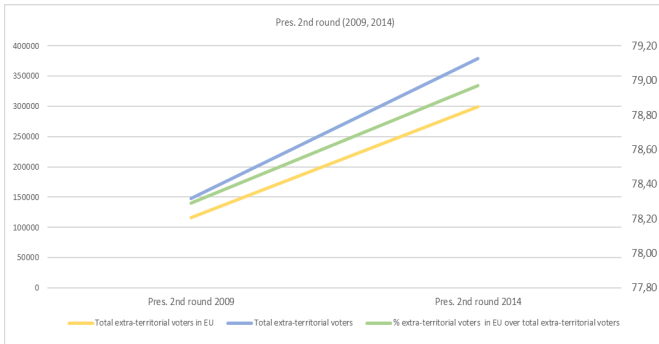


If we take into account the elections organised after Romania joined the EU (Figure 7), we can see that the highest share (more than half) of extra-territorial votes is Romanians residing in other EU Member States, mainly in France, Germany, the UK, and Spain.

Figure 7. Evolution of the number of extra-territorial voters in Romanian elections, by type of voters and elections, 1992-2016 (total extra-territorial voters, total extra-territorial voters in EU and share of extra-territorial voters in EU over total extra-territorial voters)<sup>88</sup>



<sup>88</sup> Own elaboration with data from the Central Electoral Bureau, <http://www.roaep.ro/istoric/>



Unsurprisingly, different politicians have contested the legitimacy of the participation of non-residents in national elections, using explanations ranging from the lack of interest of non-residents for participating in elections to their excessive influence on political decisions. This was the case of former PSD Prime Minister, Adrian Năstase, in 2009 (Burean, 2011) and the vocal supporters of the 2012 referendum of impeachment (Dumbrava, 2013). Some critical voices have also been reported among the representatives of the civil society.<sup>89</sup> Especially in the context of the 2014 presidential elections, (inter)national media intensely reported on the factors hindering the political participation of the diaspora in Romanian elections. Since the 2008 legislative elections, the network of newspapers linked to the diaspora (i.e. the Romanian Journal in Germany, the Romanian Gazette in Italy, The Romanian in Spain, etc.) has provided a wide space for debates on the legislative amendments concerning external voting.<sup>90</sup>

In 2015, numerous Romanian NGOs, think tanks and experts mobilised<sup>91</sup> and endorsed different projects for reforms of external voting. Some of them took part in the

<sup>89</sup> See, for example, an argument in favor of the implementation of the Greek model in Romania according to which non-residents are allowed to cast their votes only if they travel back to Greece: <http://www.criticatac.ro/diaspora-ar-trebui-voteze-ar/>.

<sup>90</sup> In the context of the post-2008 amendments of the legal framework, the Romanian diaspora's newspapers have dedicated wide space for illustrating who the candidates for the diaspora were and what kind of experiences in the diaspora/for the diaspora they had. These newspapers have intensively chronicled the 2014 management of the presidential elections. In the context of the adoption of the postal voting for the 2016 legislative elections, the Romanian diaspora's newspapers have been important instruments in the promotion of the awareness among the community (i.e. interviews with the President of PEA – for i.e. <http://www.gazetaromaneasca.com/focus/diaspora/ana-maria-patru-sfaturi-pentru-votul-diasporei-concetatenii-nostri-din-strainatate-au-mai-multe-optiuni/>, general information on the official raising awareness campaign - <http://www.diasporaro.com/campanie-de-informare-privind-votul-prin-corespondenta/>, etc.)

<sup>91</sup> See, for example, “Codul Electoral nu mai poate aștepta” (2014).

meetings organised by the Joint Parliamentary Commissions for the Electoral Code,<sup>92</sup> although with a rather limited influence on the final version of the legal texts (Popescu and Soare, 2018). Before and after the 2016 elections, numerous reports, interviews and analyses have been released on platforms specialised in monitoring Romanian political life, directly targeting the performance of postal voting and, more broadly, the participation of the diaspora in national elections.<sup>93</sup> The electoral engagement of the diaspora was also part of the topics covered by the survey *MyVote*.<sup>94</sup> One of the survey questions explicitly focused on the level of agreement with the statement: “Romanians abroad should have more influence on the politics in Romania”. According to the results, PSD and ALDE voters tend to be less supportive of this extension (i.e. less than 15% strongly agree and agree), while strong endorsements were observed among the voters of the Save Romania Union (USR), the National Liberal Party (PNL) and the People’s Movement party (PMP, with more than 70% being in agreement with the statement).

#### 4. Conclusions

This report aimed to provide an overview of the electoral rights of non-national EU citizens residing in Romania and of Romanian citizens residing abroad. As discussed in the previous sections, the issue of the political participation of non-resident citizens has become much more salient in Romanian politics as compared to the topic of the electoral engagement of foreign residents. The main explanation for this is the fact that the overall numbers of foreigners residing in Romania are still much lower in comparison to the stocks of Romanian citizens residing abroad.

Since Romania joined the EU, non-national EU citizens have been granted the right to vote and stand as candidates for EP and local elections held in the country, under the same conditions as resident nationals. They still represent the only group of foreigners enfranchised in Romania. On the other side, non-resident Romanians have been enfranchised since the early 1990s. Despite several changes in the electoral legislation regulating their political participation in Romanian elections, the electoral rights of Romanians abroad are still limited when compared to those of resident nationals: non-resident nationals cannot vote in local elections or local referenda, nor can they stand as candidates for Romanian elections if they are registered with the domicile abroad. Nevertheless, their electoral engagement has become a rather controversial topic in Romania due to the symbolic significance of the votes of the diaspora, their increasing impact on electoral results, and the grey zones in the legislation regulating their electoral entitlements. In recent times, conflicting estimations on the number of non-resident citizens entitled to vote have fuelled debates regarding their electoral participation.

For both groups – non-national residents and non-resident nationals – there is a generally low turnout in Romanian elections. Non-national EU citizens still account for a rather insignificant segment of the overall electorate for EP and local elections held in Romania, and very few of them have actually registered to vote or voted for these electoral contests. To our knowledge, there are no prominent examples of their engagement in non-

<sup>92</sup> See <http://www.cdep.ro/pls/parlam/structura2015.co?leg=2004&cam=0&idc=22&poz=1>

<sup>93</sup> “Este votul electronic o soluție pentru România? Interviu cu Prof. Dr. Robert Krimmer” (2015); Jiglău (2016).

<sup>94</sup> Based on Voting Advice Application, the survey was conducted by the Center for the Study of Democracy (Babeș-Bolyai) and Democracy Center (University of Zurich), between 29 November 2016 and 10 December 2016, with 7,690 respondents (a summary in Bădescu and Jiglău, 2017).

electoral forms of political participation either.<sup>95</sup> As for non-resident Romanians, their turnout rates for Romanian elections have been quite low when considering the increasing size of this diaspora. Their low level of electoral engagement can be explained as a side effect of the citizens' demobilisation during decades of forced participation during the communist period (Iancu and Soare, 2016). Alternative explanations of this low turnout also have focused on a combination of social and economic hardship, a complex feeling of frustration with corrupt politicians and non-representative candidates, and a low level of trust in political institutions (Burean, 2011; Tufis, 2014). Institutional factors have also been used as explanatory variables, especially the type of election (presidential or parliamentary elections) or the type of electoral system. Moreover, the perception of what was at stake in each election is also particularly relevant for understanding these levels of electoral mobilisation. At a first look, this might be the explanation behind the increased participation for the 2009 and 2014 presidential elections in Romania. In parallel, part of the literature focused on a Romanian paradox: the high levels of party membership and the inability to foster representation both at home and within the diaspora. Previous studies have also insisted on the negative impact of migration, in particular in relation to the higher cost of voting despite the post-2008 amendments (Comşa, 2015). Summing up, we can conclude with some recommendations on how to foster the electoral participation of non-resident nationals and non-national residents in elections held in Romania:

- (1) **Awareness-raising campaigns regarding the electoral procedures for registration and voting:** more efforts are needed to increase and further generalise the number of proactive campaigns raising awareness about the electoral procedures and the importance of the votes of resident EU citizens and Romanians residing abroad. For non-national residents, targeted informational material regarding the registration, voting, and candidacy regulations should be made available in different languages and widely circulated by the Romanian public authorities in collaboration with a) the mass-media; b) civil society organisations; and c) the network of embassies and consulates of other EU Member States in Romania. The active involvement of the media, the embassies and consulates of other EU Member States, and local, regional and national NGOs in sharing information about the registration and voting procedure is fundamental for reaching out to non-national voters. Furthermore, these outreach activities should be organised well before the elections to increase their efficiency. Additionally, raising awareness amongst political parties about the electoral rights of non-national EU citizens could potentially incentivise them to specifically target EU voters during electoral campaigns and field non-national candidates on their electoral lists. The same applies for non-resident nationals whose engagement in Romanian elections can be further fostered by electoral awareness campaigns well before the elections and promoted in collaboration with the host country's media, as well as with targeted postal letters to all those registered in the electoral roll.
- (2) **Simplify the voting and registration procedure:** despite recent legislative changes, the electoral registration procedure for Romanians abroad remains rather complex and the implementation of postal voting has not lived up to the initial expectations. According to the PEA records, out of the 609,962 non-resident voters included in the electoral register, only 1.5% opted for postal voting. Another possible solution would

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<sup>95</sup> There is very limited information related to the networking of groups of EU citizens on environmental issues. From interviews linked to a previous research, non-national EU citizens took part in meetings at the Fan Fest in Roşia Montana in order to train Romanian activists and diffuse their skills and knowledge on aspects linked to environmental defence. Similarly, Bulgarian environmental groups have also been active in training Romanian activists on the issue of shale gas.

be the implementation of electronic voting which has been already endorsed by several NGOs during the debates of the Joint Parliamentary Commission in 2015.

- (3) **Increase the number of polling stations available for non-national residents:** the number and territorial distribution of the polling stations for Romanians residing abroad remains insufficient and inadequate compared to the impressive size of the Romanian diaspora. While distance is not an issue in domestic constituencies, territorial distances (costs of time and money) make a difference in the case of external constituencies.<sup>96</sup> Between elections, the network of consulates could increase the efforts to build updated statistics in collaboration with administrative offices responsible for the population registers in the host countries. These statistics could not only be used for a more appropriate organisation of the polling stations abroad; but they could also help Romanian authorities to better target their consular activities in the host countries, in order to provide relevant information to nationals abroad about their electoral rights. Moreover, accurate statistics on the territorial concentration of Romanian migrants in their respective countries of residence might also improve the location of the polling stations.
- (4) **Change the candidacy requirements for the electoral constituency of Romanians abroad:** the Romanian legal system restricts the candidacy rights to nationals who have their domicile in the country. This restriction is inadequate for MPs representing the diaspora not only in light of the symbolic dimension of representation, but also in relation to a practical incoherence between parties' recruitment strategies (i.e. candidates recruited among the members of the diaspora (Chiru and Popescu, 2016)) and the legal requirements. In interviews with representatives of Romanian parties abroad, the latter complained about the limited activity of MPs in their district after the election day. In this context, the legal framework<sup>97</sup> might introduce additional funds for the activity of MPs representing the diaspora in the territory, the current available lump-sum for diaspora related activities being considered insufficient for a continuous presence on the ground.<sup>98</sup> Moreover, according to the existing rules of the two Chambers of the Parliament, the eligible costs for the diaspora parliamentary representatives are too rigid.<sup>99</sup> Another option would be a change in the district magnitude, a solution already put forward by scholars working on the Romanian electoral system (see Jiglău, 2016). An increased number of MPs for the diaspora might induce an increased visibility of the diaspora in national politics, especially if this is coupled with a stronger presence of permanent MPs' offices in the territory, as well as transparent reports on their activities in the Romanian Parliament. A change in the district magnitude could also represent a stronger motivation for political parties to invest in a more consistent way of building functional party organisations abroad with activities deployed beyond the campaigning on the eve of the different elections.

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<sup>96</sup> This point regarding the extended network of stable polling stations has been raised in the context of the amendment of the electoral law in 2015, with an explicit reference to the French case (<https://www.rfi.ro/social-64916-votul-strainatate-modelul-francez>).

<sup>97</sup> Law no. 96/2006 on the Statute of Deputies and Senators (amended version)

<sup>98</sup> There is both an issue regarding the costs of renting a parliamentary office, and an issue regarding where this office should be located. Due to the territorial extension of the 43<sup>rd</sup> district, this is a particularly thorny issue.

<sup>99</sup> In an interview, one of the senators for the diaspora complained about the fact that the administrative offices of the Senate accept exclusively the reimbursement for travel costs by TAROM, while most of the locations in the Western European Hinterland are accessible by low cost companies only.

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