

Europeans:
a universal right to vote
in local elections

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More than four million European Community citizens are deprived of the right to vote in local elections because they no longer live in the member country of which they are nationals. The European Commission believes that all Community citizens, whatever their nationality, must be able to participate in local elections in their country of residence.

The Commission therefore proposes to extend the right to vote in local elections to all nationals of other Member States resident in a Community country. In doing so, the Commission is well aware that it is touching on a delicate problem, but one for which it is time to find a positive solution. It believes that the Community has the competence and the duty to act.

- The very people deprived of the right to vote are those who have put into practice one of the four great freedoms established by the European treaties: the freedom for people to move from one member country to another. It is paradoxical – to say the least – that because of highly conservative national legislation, the exercise of this freedom is currently punished indirectly by the loss of certain political rights.
- Community legislation on the free movement of people is based on the principle of equal treatment. Since 1968, the Community's Council of Ministers has established that free movement implies, both in law and in fact, an equality which encourages better integration in the host country.
- Right from the start, the European treaties numbered among their principal objectives the improvement of living conditions. From this point of view, it is essential that every European citizen can participate in the appointment of the competent democratic bodies, particularly those at local level which are undoubtedly most concerned with the conditions of everyday life.
- The Single Act of 1986 amending the European treaties makes clear reference to the political and democratic objectives of the Community. A Community with such objectives cannot close its eyes to the political consequences of its actions and decisions, though their immediate thrust may be economic or social. The political implications of free movement, equal treatment and the improvement of living conditions must be taken into account. The Community has a duty therefore to put an end to a situation which is incompatible with its objectives because it curtails the democratic rights of some of its citizens.
- The Community and the Member States have declared themselves in favour of a people's Europe as an integral part, together with the large single market, of the European Union towards which they are heading. This makes it even more urgent to remove discrimination against nationals of one Member State residing in another. There must be a human area, without borders, to correspond to the unified area for goods and capital. The European citizen must be recognized as such throughout the Community; he must have the benefit of all his democratic rights, and must play his full role in the construction of Europe.
- Finally – and this is no less important – the European Parliament, which expresses the wishes of Community citizens, has several times asked for the right

to vote in local elections to be extended to nationals of other Member States. Resolutions to this effect were adopted in 1983, 1985 and 1987. It is now time to take account of the will of the Parliament and translate it into action.

The current situation: foreigners, residents or European citizens?

Approximately five million Community citizens live in a member country of which they are not nationals. For the majority, this affects their participation in political life, even at local level.

- Can expatriate citizens vote in local elections in their country of origin? This is not possible for Belgians, Danes, Germans, Irish, Luxembourgers, Dutch, Portuguese or most British. Citizens of four Member States can participate in local elections in their district of origin: Spaniards may do so in person, by proxy or by postal vote; the French in person or by proxy; Greeks and Italians may do so only by returning home to vote – which, given the geographical restrictions, limits the effective exercise of the voting right.
- The right to vote for local government in one's area of residence is the one most often refused to people considered as foreigners. In Belgium, Germany, Greece, France, Italy and Luxembourg the constitution reserves political rights for nationals and excludes the vote for other residents. The constitution in Spain allows it on condition of reciprocity; this is also the case in Portugal, but only for nationals of Portuguese-speaking countries. In the United Kingdom, Irish and Commonwealth citizens, who make up the great majority of foreign residents, can participate in local elections. In the remaining three Community countries – Ireland, Denmark (since 1981) and the Netherlands (since 1983) – all foreigners, even non-Europeans, have the right to vote in local elections. In Denmark, an intermediate stage occurred between 1977 and 1981 when this right was given only to nationals of the other Nordic States.

For many Member States, therefore, the criterion for the right to vote, even in local elections, remains that of nationality, while other States give priority to the idea of residence. The European Commission believes that the criterion of residence is better suited to determining, within the Community, the place where people should vote at local level. Real membership of a municipality – the focus of democratic life since the Middle Ages in many places – seems in effect to be determined by everyday life, which is itself dependent on the decisions of the council elected in the area of residence. This applies to the education of children, local and town planning, and the local taxation to which all residents, whatever their nationality, are subject. In addition, the integration of nationals from other Member States into the economic and social life of the host country is made easier if they are given the same rights as nationals.

Paradoxically, a similar problem occurs for the most European of elections, those for the European Parliament. Most Member States, giving priority to the principle of nationality over place of residence, have made provision to ensure the participation

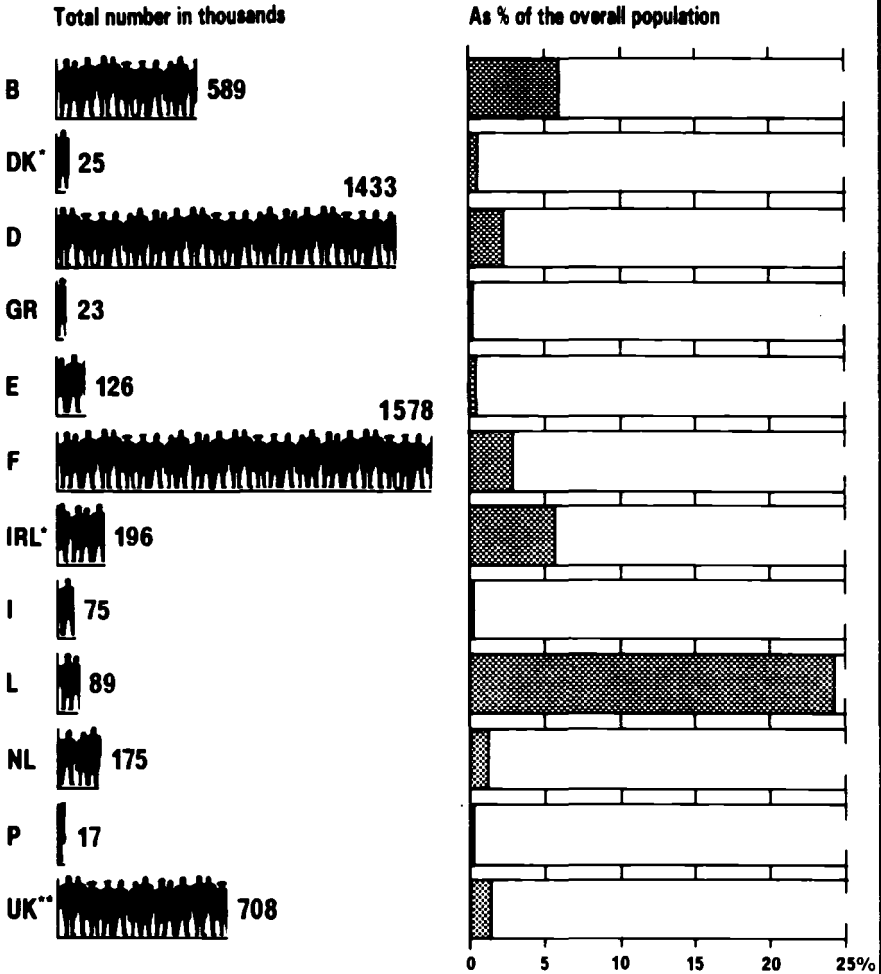
of their nationals established in another Community country. However, Ireland and the United Kingdom reserve this right for their own citizens residing within the national territory while also giving it to foreigners (Irish nationals in the case of the United Kingdom, nationals from all Community countries in the case of Ireland). Belgium has taken a remarkable initiative in according the right to vote to Community citizens resident in Belgium provided their national legislation does not allow them to vote in their country of origin. The adoption of a unified procedure for the European elections should enable these differences between nationality and place of residence to be settled, for all Member States and all European citizens. However, the European Parliament's 1982 proposal, which would provide the right to vote in the country of origin and the right to be elected in the country of residence, has not been able to win acceptance by the Community's Council of Ministers.

The effect of demography

Of every 10 foreigners residing in a Community country, only four come from another Member State. Of the latter group, 85 % live in Belgium, Germany, France and the United Kingdom. In only four member countries – Belgium, Spain, Ireland and Luxembourg – are nationals from other Member States more numerous than nationals from third countries. The relative importance of these different groups in relation to the total population is clearly a factor for consideration (see diagram). When the proportion is relatively high, the granting of the right to vote may come up against resistance due to the fear of upsetting the existing political equilibrium.

- In seven Community countries, however, the granting of voting rights in local elections to citizens from other Member States should hardly pose such a problem.
- First of all, the question is already settled for three countries: Denmark, Ireland and the Netherlands have given the right to vote in local elections to all foreigners, whether they are Community citizens or not. The foreign population in Denmark (approximately 2 % of the total population) can be divided into four generally equal groups: citizens of other Community countries, citizens of other Nordic countries, nationals of other European States such as Turkey and Yugoslavia, and people from other parts of the world. Seven per cent of the population of Ireland is 'foreign', but 80 % of this group are British nationals, mostly of Irish extraction. In the Netherlands, 4 % of the population are foreign residents, of whom one-third come from other member countries. The principal cities (Amsterdam, Rotterdam, The Hague and Utrecht) have approximately one-third of the overall number of foreigners. They account for 10 % of the total population in Rotterdam, 14 % in Amsterdam and a much greater percentage in some peripheral municipalities. Nonetheless, the extension of the right to vote has caused hardly any problems.
- In four other Community countries, the total number of foreigners is less than 1 % of the overall population. This is the case for Spain, Greece, Italy and Portugal. Political equilibrium does not appear to be an issue here.

Citizens of Community Member States resident in a Member State other than their own



* All foreigners living in this Member State already have the right under national law to vote in local elections.

** In the United Kingdom, Irish people, who comprise the majority of resident nationals of other Member States, already have the right to vote in local elections.

Source: Report of the European Parliament Committee on the right to vote in local elections for nationals of Community Member States, 1986.

- There remain four Community countries where the number of foreigners is relatively large and where the problem of voting rights arouses more passions.
- Like the Netherlands, the United Kingdom has only 4 % of foreigners in its population; one-third come from within the Community (particularly from Ireland). The official figures are not sufficiently precise to allow a detailed comparison, particularly as many Commonwealth immigrants possess British nationality. However, Commonwealth and Irish nationals already benefit from the right to vote, so an extension of this right to other Community citizens would involve little more than 100 000 persons.
 - Seven per cent of the German population are foreigners, of whom one-third come from within the Community (mainly Italians, Greeks, Spanish, Portuguese and Dutch). This immigration is sufficiently spread out geographically so that it is difficult to imagine it affecting electoral results. At local level the number of Community nationals rarely amounts to 5 % of the population. The only exceptions are some large cities (Frankfurt, Stuttgart), some neighbouring municipalities (Offenbach, Mannheim, Ludwigshafen) or border ones (Krefeld, Saarbrücken), and one or two new towns industrialized with the help of Community migrants (Wolfsburg).
 - In France, 7 % of the population are foreigners. Of these, a little more than 40 % come from other Community countries, particularly from Portugal (20 %), and from Italy and Spain (approximately 10 % each). The foreigners are concentrated in the major urban areas. In the Paris region, nationals from other Member States account for slightly more than 5 % of the overall population (peaking to approximately 10 % in the 1st, 2nd and 8th districts of Paris); in the conurbations of Lyons, Toulouse and, in particular, Grenoble and Clermont-Ferrand they account for more than 7 %; there are also concentrations in several traditional coal and steel border areas such as Thionville, Forbach, etc. The percentages may be higher in certain municipalities peripheral to the big conurbations.
 - In Belgium, 9 % of the population are foreigners and two-thirds of these come from within the Community. The Italians lead this group with 32 % of all foreigners, followed by the French (12 %), the Dutch (7,5 %) and the Spanish (6,6 %). The foreign population is mostly concentrated in the south of the country (Wallonia) and in the Brussels region, where more than a quarter are foreign.
 - The Grand Duchy of Luxembourg is an extreme case: 26 % of its population are foreign nationals. Nine-tenths of them come from other member

countries, with 56 % from the south of the Community (particularly from Portugal and Italy) and 30 % from neighbouring countries (France, Germany and Belgium).

Birth of a proposal

Far from being a hasty or ill-considered initiative, the Commission's proposal is the result of a long process and much deliberation.

- The idea was born in the 1970s. Its origin can be traced to a declaration by the Heads of State or Government of the Community Member States. Meeting in Paris in December 1974, they decided to have the possibility studied of 'conferring on the citizens of Member States special rights as members of the Community'. On that basis, a European Commission report of July 1975 posed the question of the right to vote in local elections. In November 1977, a European Parliament report and resolution called on the Commission to draw up proposals. The issue was again discussed in October 1978, on the occasion of a round table organized by the Parliament in Florence. However, the work undertaken by the Council of Ministers between 1976 and 1979 on the basis of a new Commission report did not get beyond the stage of successive draft proposals. The political and legal objections were numerous. Some were reluctant to embark on a process of constitutional change, others raised questions about the competence of the Community, the interpretation of the Treaty of Rome and some of its articles, and the type of legal instrument to be adopted.

- In the 1980s, the idea took a more concrete form. The European Parliament decided in July 1980 to draw up a new report, which was adopted in June 1983. In June of the following year, the European Council meeting at Fontainebleau asked an *ad hoc* committee, presided over by Mr Adonnino, to consider measures to strengthen the identity and image of the Community among its citizens and throughout the world. In a report approved by the Heads of State or Government in June 1985, the committee particularly recommended the resumption of discussions on the right to vote in local elections. The Danish government unsuccessfully put forward proposals on this matter in October 1985. In November 1985, the European Parliament reiterated the importance it attached to the issue, and the European Commission confirmed its intention to submit a new report. This document, presented in October 1986, was the first comprehensive study to examine the question from all angles: political, legal, demographic and cultural. It was the necessary starting point for the drawing up of a legislative proposal.

Following the adoption in December 1987 of a new Parliamentary Resolution, in the following June the Commission submitted to the Council a proposal for a directive. To be adopted, this proposal requires, in addition to the opinion of the European Parliament, the unanimous agreement of the ministers. Once such agreement is given, the Member States will have three years in which to amend

their legislation and, where necessary, their constitution. Such an amendment may pose political problems, but there is no legal difficulty: Community law takes precedence over the internal law of Member States, even constitutional law. Moreover, all the constitutions in question contain provisions enabling them to be amended.

The Commission's proposal in outline

The Commission proposes that every citizen of a Community Member State should have the right, in local elections, to vote, to stand for election and to be elected in their municipality of residence.

- The right to vote. For nationals of other Member States, this will be a matter of choice and not an obligation. Someone who prefers to participate in the local elections in his country of origin can continue to do so if the legislation of that country gives him the opportunity. For the Member States, it will be an obligation: each State must allow a national of another Member State residing on its soil to vote in local elections as long as he or she wishes to do so and fulfils the required conditions. A double vote – in both one's country of origin and in one's host country – will not be allowed. The citizen of another Member State who wishes to vote in his municipality of residence will have to ask to be included on its list of electors and must supply proof that he no longer has such a right in his country of origin, whether because he has lost it automatically or has cancelled it himself.

The right to vote accorded to the nationals of other Member States is subject to certain conditions.

- Minimum duration of residence. This may be established by the the Member States as they wish, on one condition: that it does not exceed the term of office of a local council in the country in question. This formula respects existing regulations in certain Member States while guaranteeing the equal, fundamental rights of all European citizens. In addition, it favours a successful adjustment to the political system operating in the country of residence, by allowing individual countries to impose a delay on the new elector – enabling him or her to observe a local council in operation.
- Age, legal capacity, etc.: in accordance with the existing conditions for nationals of the host Member State.
- The right to present oneself for election and to be elected. For nationals of other Member States, this is subject to certain conditions:

- A condition of length of residence, determined according to the same criteria as above, but longer: the maximum length to be equivalent to two terms of office of a local council. Here also, the Member States are free to determine a lower threshold.
- The other conditions imposed on its own nationals by the host State.
- Possible restrictions due to national political and administrative realities. For example, without being obliged to do so, Member States may exclude local councillors who are nationals of other member countries from functions such as mayor and deputy mayor, where the role may in some respects go beyond the strictly local framework and involve delegated national power. In addition, whenever local councillors participate as such in the election of a parliamentary assembly (such as happens with the French Senate), local councillors who are nationals of other Member States may be excluded from a vote which affects national sovereignty and replaced for it by other electors.

It is clear that the proposed directive takes careful account of the political realities of Member States. In order to encourage a gradual and harmonious application of the new provisions, the Commission has also envisaged transitional measures.

- For the first two elections organized under the directive, Member States may limit the number of non-nationals to 25 % of the total number of councillors elected in a municipality. This is a measure which could be applied in areas with a strong concentration at local level of people from member countries.
- When the number of nationals of other Member States exceeds 20 % of the total population of a member country, the member country in question is allowed not to apply the directive in the first election for which it should otherwise operate. The European Commission will report to the Council of Ministers and propose, whenever necessary, progressive application for subsequent elections. The Commission hopes in this way to respond to possible fears in States where the proportion of nationals of other member countries is very significant. The 20 % threshold would currently apply only in Luxembourg.

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The right to vote in local elections, for all Community citizens living in a member country other than their country of origin, is necessary for the Community and necessary for democracy. The Commission is proposing prudent and gradual application of a principle which is as essential for the democratic participation and equal treatment of all citizens as for the promotion of European Union and the creation of a people's Europe ■

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