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REPORT ON POLITICAL PARTICIPATION OF MOBILE EU CITIZENS: CZECH REPUBLIC

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Report on Political Participation of Mobile EU Citizens

Czech Republic

Lukáš Linek *

Abstract:

EU citizens in the Czech Republic have the right to vote and run in municipal elections and in European Parliament elections. They have no such rights in regional and national elections (presidential and parliamentary: Chamber of Deputies and the Senate). In addition to that, EU citizens with permanent residence have the right to vote in local referendums. Third-country nationals have no voting and candidacy rights in the Czech Republic. EU citizens are required to request registration in the Supplement voting lists. Their registration is automatically renewed for subsequent elections.

Czech citizens living abroad have no right to vote in municipal and regional elections. They are allowed to vote in national (presidential and parliamentary: Chamber of Deputies and the Senate) and in European Parliament elections. In these elections, non-resident citizens are allowed to run as candidates. For all types of national elections, Czech citizens living abroad have to be registered at the embassy in the Special list of voters.

Czech electoral law and practices pose severe challenges for both no-citizen residents and non-resident citizens. EU citizens are not automatically registered and the government does very little to inform them about their rights and duties. Moreover, EU citizens are not allowed to become party members which restricts their candidacy rights. The Czechs living abroad have to face high voting costs as voting at embassies is the only option.

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Abstrakt:

Občané EU žijící v České republice mají právo volit a kandidovat v komunálních volbách a ve volbách do Evropského parlamentu. Tato práva nemají v krajských a národních volbách (prezidentské a parlamentní: Poslanecká sněmovna a Senát). Kromě toho mají občané EU s trvalým pobytem právo volit v místních referendách. Státní příslušníci třetích zemí nemají v České republice právo hlasovat ani kandidovat. Občané EU jsou povinni požádat o registraci v dodatku seznamu voličů. Jejich registrace se automaticky obnovuje pro následující volby.

Čeští občané žijící v zahraničí nemají právo volit v komunálních a regionálních volbách. Mohou ale hlasovat v národních volbách (prezidentských a parlamentních: Poslanecká sněmovna a Senát) a ve volbách do Evropského parlamentu. V těchto volbách mohou čeští občané žijící v zahraničí kandidovat. Pro všechny typy národních voleb musí být čeští občané žijící v zahraničí zapsáni na velvyslanectví do zvláštního seznamu voličů.

České volební právo a praxe představují vážné problémy jak pro občany EU žijící v ČR, tak i pro české občany žijící v zahraničí. Občané EU nejsou automaticky registrováni a vláda jen v omezené míře informuje tyto občany o jejich právech a povinnostech. Kromě toho se občané EU nesmí stát členy politické strany, čímž je podstatně omezeno jejich právo kandidovat. Češi žijící v zahraničí musí čelit vysokým hlasovacím nákladům, protože hlasování na velvyslanectvích je jedinou možností, jak hlasovat.

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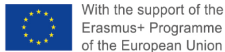
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1. Introduction

EU citizens in the Czech Republic have the right to vote and run in municipal elections and in EP elections. They have no such rights in regional and national elections (presidential and parliamentary: Chamber of Deputies and the Senate). In addition to that, EU citizens with permanent residence have the right to vote in local referendums. Third-country nationals have no voting and candidacy rights in the Czech Republic. EU citizens are required to register in the Supplement voting lists for each type of election. Their registration is automatically renewed for subsequent elections.

Czech citizens living abroad have no right to vote in municipal and regional elections. They are allowed to vote in national (presidential and parliamentary: Chamber of Deputies and the Senate) and in European Parliament elections. In these elections, non-resident citizens are allowed to run as candidates. For all types of national elections, Czech citizens living abroad have to be registered at the embassy in the Special list of voters.

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

Type of voter	Election type	Voting Right	Candidacy Right	Automatic registration	Remote voting
Non-resident citizens	National Legislative ¹	YES	YES	NO	YES/NO ²
Non-resident citizens	European Parliament	YES ³	YES	NO	NO
Non-citizen residents	Local Legislative	YES	YES	NO	N.A.
Non-citizen residents	Local Mayoral ⁴	N.A.	NO	N.A.	N.A.
Non-citizen residents	European Parliament	YES ⁵	YES ⁶	NO	N.A.

¹ Elections for the Chamber of Deputies and for the Senate.

² Voting at embassies is possible for Chamber elections, but not for Senate elections.

³ In-country voting anywhere in the Czech Republic is possible for all non-resident citizens who register and apply for a voter card.

⁴ Local mayors in the Czech Republic are elected by indirect election.

⁵ Only for EU citizens who have registered for residence in a municipality for at least 45 days before the second day of the elections.

⁶ Only for EU citizens who have registered for residence in a municipality for at least 45 days before the second day of the elections.

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

Non-citizen Residents

The number of non-citizen residents has been growing since the mid-1990's. The comparable statistics are available since 1996 (see Table A1 in Appendix). The small temporary declines happened during the periods of economic downturns (2000 and 2009 and 2010). Whereas in 1996, there were almost 200,000 non-citizen residents, in 2016, there were almost half a million (all information on the number of non-citizen residents come from the Czech Statistical Office; detailed sources are reported in Appendix).⁷

The country origin of those non-citizen residents has been changing slowly since joining the EU. In 2008, around 34% of them came from EU countries. In 2016, the number climbed to 42% (see Table A2 in Appendix). The majority of EU citizens come from Slovakia (51 percent), Poland and Germany (10 percent), Bulgaria (6 percent) and Romania (5 percent).

The regional composition of non-citizen residents is heavily skewed. The majority of them reside in Prague. In 1996, around 30% of all non-citizen residents lived in Prague; in 2016, the share grew to 37%. Two other regions have an above average number of non-citizen residents as well: the Central Bohemia region (13% in 2016) and Southern Moravia (8%). The Central Bohemia region encircles the capital city Prague and a lot of (upper) middle class people who work in Prague have bought houses there. In addition to that, the car factory Škoda is present there. This factory employs a high number of citizens from Poland, Ukraine and other Eastern European countries. The Southern Moravia region's capital Brno is the second largest city and attracts high skilled workers from EU as well as students from Slovakia.

On average, there are more male non-citizen residents in the Czech Republic (56% as of 2016, see Table A3 in Appendix). The share of male non-citizen residents is higher among the economically active segment between 25 to 65 years. At around age of 40 to 50, the share of males exceeds 60%. Age structure is skewed in favor of the economically active as 77% of non-citizen residents are aged between 20 to 60 years (see attached table – gender and age sheet).

The majority of non-citizen residents work in the processing and manufacturing industry (31% of EU origin residents and 22% of non-EU residents). Around 1/6 of non-citizen residents work in administration (17% of EU origin and 13% of non-EU origin). Other important sectors are construction and wholesale and retail. It is also possible to work using trade certificates, which allow residents to work as self-employed. This is much more common among non-EU residents, especially Vietnamese and Ukraine citizens.⁸

⁷ Data provided by Eurostat contain information about the number of long-term immigrants entering (and leaving) the country each year, see <https://ec.europa.eu/eurostat/web/population-demography-migration-projections/migration-and-citizenship-data/database>

⁸ Data about the work sector of non-citizen residents are available at: https://www.czso.cz/documents/10180/67292846/29002717_t3-01.pdf/6b869934-2304-416f-baab-9e03d980be81?version=1.1

Non-resident Citizens

According to Government officials, it is hard to estimate the number of Czech citizens staying abroad. It is somewhere between 0.3-0.5 million. Based on the World Bank data, Zaponni estimates 0.37 million of Czech citizens live abroad. The main destinations are Slovakia (67,000), Germany (55,000), Austria (50,000) and USA (32,000).⁹

However, Kostelka estimates the number of Czech citizens living in EU and US as follows: 31,000 in 1990; 57,000 in 2000; 81,000 in 2005; and 109,000 in 2012. The number of Czech citizens staying in the US is quite small and the majority of the Czechs outside the country live in the EU.¹⁰

Eurostat estimates the number of emigrants from the Czech Republic (people ceasing to have residence in the country) to be around 30,000 annually in recent years. However, these numbers also include foreigners leaving the Czech Republic, not only Czech citizens leaving the Czech Republic.¹¹

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

Non-citizen Residents

Voting and candidacy rights. EU citizens have the right to vote and run in municipal elections and in EP elections. They have no such rights in regional and national elections (presidential and parliamentary: Chamber of Deputies and the Senate). In addition to that, EU citizens have the right to vote in local referendums. Provisions concerning the permanent residence of the EU citizens in the Czech Republic limit the voting and candidacy rights in local elections and referenda. Third-country nationals have no voting and candidacy rights in the Czech Republic.

In EP elections, EU citizens are allowed to vote, if they have a permanent or temporary residence in the Czech Republic issued at least 45 days prior to elections. The same condition applies to candidacy rights (Act no. 62/2003 Coll., on European Parliament elections, paragraphs 5 and 6). The age limit for candidacy rights is 21 years both for Czech and EU citizens; the voting age is set to 18 years. EU citizens are allowed to run as candidates; there is no requirement of residence in the country.

In municipal elections, the right to vote and run of EU citizens is limited only to those who have a permanent residence (Act no. 491/2001 Coll., on elections to municipal councils, paragraphs 4 and 5). However, mayors, deputy mayors, and city councillors in Prague have to be of Czech citizenship (Act no. 128/2000 Sb., on municipalities, paragraph 103). This poses additional limits on candidacy rights. The age limit for voting and candidacy rights is 18 years both for Czech and EU citizens.

⁹ Data are available at: http://peoplemov.in/#f_CZ

¹⁰ Kostelka, Filip. 2017. "Distant Souls: Post-Communist Emigration and Voter Turnout." *Journal of Ethnic and Migration Studies* 43(7): 1061–1083.

¹¹ Data are available at: <https://ec.europa.eu/eurostat/web/population-demography-migration-projections/migration-and-citizenship-data/database>

Voter registration general. The voter registration system differs for Czech citizens and EU citizens. Generally speaking, for Czechs, the registration is automatic, for EU citizens the registration is upon request. There are separate registration procedures for EP and municipal elections for EU citizens.

For municipal elections, municipalities create the Supplement of the permanent list of voters, which includes EU citizens. EU citizens have to apply to be enrolled in the Supplement. Once registered EU citizens are automatically registered for subsequent municipal elections without a need to re-apply.

For each EP election, municipalities create a new list of voters which is based on the Permanent list of voters for municipal elections. EU-citizens have to apply to be enrolled in the list of voters for EP elections. EU citizens are automatically registered for subsequent EP elections without a need to re-apply, even if they change the place of residence.

Voting method. In EP elections, the Czech Republic is a single constituency and seats are allocated based on the flexible list Proportional Representation (PR) system with the d'Hondt method of apportionment. It is possible to vote at the place of residence or anywhere in the Czech Republic using a voter card allowing an individual to vote outside the home constituency (Act no. 62/2003 Coll., on European Parliament elections, paragraphs 27 to 30). There is no voting abroad at embassies. It is possible to vote only by person; no proxy or postal voting is allowed.

In municipal elections, each municipality is automatically one constituency, however, the municipal assembly can decide upon a larger number of constituencies. Allocation of the seats is based on the flexible list PR system with the d'Hondt method of apportionment. It is possible to vote only in the municipality of residence (Act no. 491/2001 Coll., on elections to municipal councils, paragraphs 4). It is possible to vote only by person; no proxy or postal voting is allowed.

Non-resident Citizens

Voting and candidacy rights. Czech citizens living abroad are allowed to vote in national (presidential and parliamentary: Chamber of Deputies and the Senate) and in European Parliament elections. They have no such right in municipal and regional elections. In all national elections and EP elections, non-resident citizens are allowed to run as candidates. There is no difference between those residing in the EU and in third countries.

Voter registration general. For all types of national elections, Czech citizens living abroad have to be registered at the embassy in the Special list of voters. Once a voter is enrolled in the Special list of voters, he is automatically deleted from the Permanent list of voters where the voter has been registered before. Czech citizens living abroad may apply for a voter card at the embassy allowing them to vote personally in any electoral district in the Czech Republic or at embassies (only for Chamber of Deputies and presidential elections; there is no voting at embassies for the Senate elections).

For EP elections, Czech citizens living abroad have to be registered at the embassy in the Special list of voters. Based on this registration, they may apply for a voter card with which they can vote in any district in the Czech Republic (Act no. 62/2003 Coll., on European Parliament elections, paragraphs 30). Voting at embassies

is not available for EP elections. In effect, those residing abroad are allowed to vote only by person in the Czech Republic.

If a Czech citizen living abroad keeps his permanent residence in the Czech Republic, he can vote in the Czech Republic in person, in the municipality where he has permanent residence (this applies also for municipal and regional elections).

Voting method. In Presidential elections, the Czech Republic is a single constituency, with a two-round majoritarian electoral system (only two candidates proceed into the second round). It is possible to vote at the place of residence (municipality, embassy) or any district using a voter card allowing an individual to vote outside the home constituency. Voting abroad takes place at embassies. It is possible to vote only by person; no proxy or postal voting is allowed.

In Chamber of Deputies elections, a flexible list PR system is used. It is possible to vote at the place of residence (municipality, embassy) or any district using a voter card allowing an individual to vote outside the home constituency. Voting abroad takes place at embassies. It is possible to vote only by person; no proxy or postal voting is allowed.

In Senate elections, a two round majoritarian electoral system (only two candidates proceed into the second round) is used in 81 constituencies. It is possible to vote at the place of residence and anywhere in the constituency using a voter card. Czech citizens abroad vote in-country using voter cards; they can vote in any constituency. There is no voting abroad (at embassies). It is possible to vote only by person; no proxy or postal voting is allowed.

In EP elections, the Czech Republic is a single constituency and seats are allocated based on the flexible list Proportional Representation (PR) system with the d'Hondt method of apportionment. It is possible to vote at the place of residence and everywhere in the Czech Republic using a voter card allowing an individual to vote outside the home constituency. There is no voting abroad at embassies. It is possible to vote only by person; no proxy or postal voting is allowed.

In the Czech Republic, postal voting is not allowed. This creates an obstacle both for voters in the Czech Republic and abroad. Especially for voters abroad, the postal vote may be the only way to vote, if a voter doesn't want to travel hundreds of kilometers so that they can vote at the embassy. The current government policy programme contains the promise to "ease the voting procedure" and to "allow postal voting".¹²

¹² Source: <https://www.vlada.cz/cz/jednani-vlady/programove-prohlaseni-vlady-162319/>

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

2.1. Overview of Relevant Administrative Regulations

EP Elections

European Parliament elections are regulated mainly by the Act no. 62/2003 Coll., on European Parliament elections. This law contains details about voter registration, candidacy, the electoral system, and the role of state administration and municipalities in running the election. Several issues connected to the organization of elections and the role of state institutions are covered in Decree no. 409/2003 Coll., on implementation of Act no. 62/2003 Sb., on European Parliament elections.¹³

Local Elections

Local elections are regulated by Act no. 491/2001 Coll., on elections to municipal councils. This law provides details about voter registration (esp. creation and updating of the Permanent list of voters), candidacy, electoral system and the role of state administration. Minor issues are dealt with in Decree no. 59/2002 Sb., on implementation of Act no. 491/2001 Sb., on elections to municipal councils, and Guidelines of the Ministry of Interior on the practice of municipal authorities (Electoral rights of citizens of other EU member states in the elections to municipal councils), issued on 30th May 2018.¹⁴

2.2. Voter Registration

Voting and candidacy rights are connected not only to citizenship, but also to the place of residence requirement, which is used for administrative and registration purposes. Under the Municipal election law, even Czech citizens have to have permanent residence in the municipality to have the right to vote and run in municipal elections (Act no. 491/2001 Coll., on elections to municipal councils, paragraphs 4 and 5). For the Czech citizens, the permanent residence is based on a declaration, it is only for registration purposes, and is based on the legal right to property/address (ownership, rent etc.) or consent of the owner of the property.

There are two types of residence of foreigners according to the Czech law on the residence of foreign nationals: temporary and permanent. Temporary residence is issued to those who wish to stay in the country for at least 3 months. Applicants for the temporary residence are required to have an admission to study, to have a job, to

¹³ The actual and past versions of the law and decree are accessible at: <https://www.zakonyprolidi.cz/cs/2003-62>; <https://www.zakonyprolidi.cz/cs/2003-409>

¹⁴ The actual and past versions of the law and decree are accessible at: <https://www.zakonyprolidi.cz/cs/2001-491>; <https://www.zakonyprolidi.cz/cs/2002-59>. The Guidelines are available at: <https://www.mvcr.cz/soubor/metodika-volebni-pravo-obcanu-jinych-clenskych-statu-eu-ve-volbach-do-zastupitelstev-obci.aspx>

be registered as entrepreneur, or to be a family member of somebody who fulfils the above-mentioned requirements. Permanent residence is issued to those who have stayed for at least 5 years in the Czech Republic based on the temporary residence. The documents have to be submitted in Czech and by person. It is a permission for stay in the country.

The voter registration system for all elections in the Czech Republic is decentralized to the level of municipalities. Each municipality runs the Permanent list of voters (electoral roll). Czech citizens are automatically enrolled in the Permanent list of voters. Generally, Czech citizens inform the municipality about their place of residence (the so-called permanent residence). To get the permanent residence, Czech citizens have to have the legal right to the property/address (ownership, rent, etc.) or the consent of the owner. This address is used mainly for official correspondence between the citizen and the state. The list of all Czech citizens and their permanent residence is administered by the state (Ministry of Interior) and municipalities may apply to the Ministry for the complete list within their jurisdiction. This complete list contains also newly enfranchised voters (those becoming 18 years old during the given year). Municipalities use permanent residence information (name and address) to create and update the Permanent list of voters. A substantial number of Czechs live in a different place than where they have official permanent residence leading to problems with voter registration (typically university students live at the place of their study, but their official permanent residence, and thus their polling district, is at their parents' place of residence).

EP Elections

For each EP election, municipalities create a new List of voters for EP elections which is based on the Permanent list of voters for municipal elections. EU citizens have to apply to be enrolled in the List of voters for EP elections. The application has to be submitted 40 days prior to the election at the latest. EU citizens have to apply to be enrolled in the list of voters, even though they are already listed in the Supplement for municipal elections. This dual registration system is justified by the need to cancel the registration of EU citizens for EP elections in their previous country. The application has to contain previous place of residence abroad and state citizenship (to know where to cancel former enrollment). The applicant has to show a proof of identity (ID card, passport).

Once registered for EP elections, EU citizens are automatically registered for subsequent EP elections without a need to re-apply, even if they change the place of residence (Act no. 62/2003 Coll., on European Parliament elections, paragraphs 27 to 29). The state (Ministry of Interior; Office of Alien Police) provides each municipality upon request with the list of EU citizens registered to vote in a given municipality.

Before casting a vote, both Czech citizens and non-citizen residents have to prove their citizenship and identity with an ID card, passport or other document.

Local Elections

For municipal elections, municipalities create the Supplement of the permanent list of voters, which includes EU citizens. EU citizens have to apply to be enrolled in the

Supplement. The proof of EU citizenship and notification of the permanent residence in the Czech Republic are required. The application can be submitted until two days before elections when the Supplement is finalized (Act no. 491/2001 Coll., on elections to municipal councils, paragraph 28).¹⁵ The list of EU citizens allowed to vote is provided by the state (Ministry of Interior; Office of Alien Police). EU-citizens are automatically registered for subsequent municipal elections without a need to re-apply. Before casting a vote, the non-citizen resident has to prove his citizenship with a passport (or other document) and valid residence card.

Non-citizen residents who are once registered in the Supplement are kept in the Supplement unless they ask to be unlisted or if they lose voting rights (through death or the end of residence in the Czech Republic). There is automatic renewal of registration by the municipal authorities. Moreover, municipal authorities should, according to the Guidelines, ask the Office of Alien Police for the list of non-citizen residents allowed to vote. Before casting a vote, the non-citizen resident has to prove his citizenship and identity with a valid residence card; Czech citizens with an ID card or passport.

The law on elections to municipal councils requires EU citizens to have a permanent residence in the Czech Republic which is generally given after a 5 year stay in the Czech Republic on the temporary permit. In 2014, the Ombudsman of the Czech Republic invited non-citizen residents with temporary residence to participate in municipal elections and provided them with guidelines for how to apply to be listed in the Supplement of the permanent list of voters. The Ombudsman referred to EU treaties as the source of this right. The Ombudsman also sent an open letter to the Minister of Interior to change the law according to the EU Treaty.¹⁶ The Ombudsman argued that according to the EU Treaty, EU citizens are allowed to vote in municipal and EP elections in a country where they have a residence, under the same provisions as citizen residents. Moreover, according to the Ombudsman, the EU treaty doesn't allow differentiation among EU citizens based on the length of their residence. However, only EU citizens with permanent residence are allowed to vote.

A Slovakian citizen sued the municipality after his application had been refused on the claim that he lacked the main requirement: permanent residence. However, the regional court in Brno declared that the Slovak citizen had to be registered based on his temporary residence, arguing the EU law has direct impact if the Czech law contradicts it. The State electoral commission issued a statement according to which non-citizen residents with just temporary residence are allowed to be listed in the Supplement of voters. In effect, non-citizen residents with temporary residence were allowed to vote already in 2014 municipal elections.

In 2016, the Government submitted the amendment to the law on municipal elections to the Parliament, which should have changed the conditions for the exercise of voting right of non-citizen residents. According to the amendment, even the non-citizen residents with temporary residence should have been allowed to vote. The amendment led to heated political debates about the right to vote of foreigners.

¹⁵ There is a large divergence in the deadline time for EP elections (40 days) and local elections (2 days). The difference stems from the fact that for EP elections, the states have to coordinate electoral rolls, as the EU-voter registered in a new country has to be also deleted from the electoral roll in her previous country.

¹⁶ Source: [https://www.ochrance.cz/fileadmin/user_upload/ESO/20-2014-SZD_vyzva_ministrovi_vnitro .pdf](https://www.ochrance.cz/fileadmin/user_upload/ESO/20-2014-SZD_vyzva_ministrovi_vnitro.pdf)

Populist party Dawn of Direct Democracy (now Party of Direct Democracy/SPD) criticized the entitlement to vote for EU citizens with temporary residence arguing that only Czech citizens should be allowed to vote in the Czech Republic. MPs from other parties joined with the populists and the amendment was not passed. At the end, even Prime Minister and cabinet members voted against the amendment. Notwithstanding the parliamentary opposition to this change, the Ministry of Interior issued guidelines in May 2018, according to which the non-citizen residents with temporary residence are allowed to vote. According to estimates, the change would allow around 118,000 EU citizens with temporary residence to register (mainly Slovaks, Germans and Poles). This would mean around 1.3% of the total electorate.¹⁷

There is no publicly available summary statistics of voter registration of EU citizens for municipal and EP elections. The system of registration is decentralized. However, municipalities have to inform the Office of Alien Police about each registration of a non-citizen resident in the Supplement. However, the Office of Alien Police refused to provide the information as it only registers information in the system, but doesn't have access to the information.

According to the Ministry of Interior (personal communication), there were 3069 EU citizens registered in the Supplements of the permanent list of voters (as of 7th August 2018). There was more than 80,000 EU-citizens with permanent residence in the Czech Republic in 2018 (official data are not available yet), which means less than 4% of eligible voters were registered. These EU-citizens were registered for voting in the 2018 municipal election.

To vote in EP elections, these EU citizens registered in the Supplement have to apply to for voting in EP elections. According to the Ministry of Interior (personal communication), there were 689 EU-citizens registered to vote in the 2014 EP election.

According to Antoš, there were 1270 EU-citizens registered to vote in the 2010 municipal election (out of 52,145 EU-citizens with permanent residence in the country, which means 2.4% of eligible voters were registered).¹⁸

The main obstacles experienced by EU-citizens concern information about the election and registration procedure. The state (Ministry, Government) doesn't run any information campaigns concerning the participation in election not only for Czech citizens, but also for non-Czech residents allowed to vote. The Ministry of interior provides only brief information about elections and rights on its website (since 2004 when there were first EP elections). In addition, the Ministry printed information leaflets about the EP election for foreigners. However, they were only distributed by the municipalities upon personal request.

The period of 40 days prior election for submitting the registration application was particularly criticized by both the EP liason office and organizations of EU nationals. The change from active to automatic registration could be easily realized,

¹⁷ Source: https://zpravy.idnes.cz/poslanci-hraji-o-118-tisic-novych-volicu-z-ciziny-f54-domaci.aspx?c=A161117_200032_domaci_fka

¹⁸ Antoš, Marek. 2012. "Politická participace cizinců v ČR." *Politologický časopis* 19(2): 113–127; Antoš, Marek. 2012. "EU citizens and elections in the Czech Republic: hostile legislation, poor turnout.," available at SSRN: <https://ssrn.com/abstract=2451281> or <http://dx.doi.org/10.2139/ssrn.2451281>

however, there is no political will for this move. Recently, we can see growing political opposition towards voting of foreigners in the Czech Republic.

In addition to that, organizations focusing on EU citizens in the Czech Republic are mainly created to represent minorities with Czech citizenship living in the Czech Republic (Slovaks, Germans, Poles etc.). Thus, the members of these organizations are already allowed to vote. Some of the organizations have started to change their focus to EU citizens living in the CR, however, the demand for organization from foreigners is weak. When the number of foreigners from one country is small (Ireland, Netherlands, etc.), the information about the elections and registration procedure is provided by embassies, especially through newsletters.

2.3. Information during Election Campaigns

EP Elections

There is no information campaign organized by the state and nongovernmental organizations, not even by the EP liaison office. In the case of some countries, the foreign embassies inform their own citizens.

Local Elections

There is no information campaign organized by state and nongovernmental organizations. According to Ministry of Interior officials, the Ministry intended to run an information campaign before the 2018 municipal elections, which should have highlighted registration processes and duties of EU citizens before they could vote. However, the campaign was stopped because of the fear of negative reception and negative framing of it from the far right populist party SPD. The same already happened when the government proposed an amendment to the election law in 2016 which would have allowed EU citizens with temporary residence to vote in municipal elections (“the state supports the foreigners to vote in our Czech elections”).

Before the 2018 Prague municipal election, the candidate list called Praha sobě (Prague for its inhabitants) included information about the registration and voting for EU citizens on its website (see <https://www.prahasobe.cz/english>). It provided information about the registration offices and the manual on how to register in English. Several other political parties shared the same information on their local party branches’ websites.

2.4. Political Parties and Candidacy Rights

According to the Law on political parties (Act No. 424/1991 Coll., on association in political parties and political movements, paragraph 1 and 2), only Czech citizens are allowed to be members of political parties. In effect, non-citizen residents have to run as independents. Political parties have much easier access to candidacy than non-affiliated citizens who decide to run, esp. in local elections. Political parties do not target EU citizens either with electoral appeals or by nominating an EU citizen.

EP Elections

In EP elections, EU citizens are allowed to run, if they have a permanent or temporary residence in the Czech Republic issued at least 45 days prior to elections. EU citizens have to run as independents on the party list. The official candidate lists do not contain information about the citizenship of the candidates and they contain only the place of residence in the Czech Republic. Thus, it is impossible to report this information. Looking through the lists and media reports about previous EP elections, there were very few cases of foreigners on the candidate lists. Moreover, these cases were limited only to minor parties. In several cases, it was not possible to establish whether the candidate had Czech citizenship or not. Here are the cases:

Marie Salm-Reifferscheid-Raitzová – Monarchistic Party (2004)

Michael J. A. Stewart of Albany – The Association of Non-partisans (2004)

Pötsch Detlef – The Democratic Green Party (2009)

Francesco Vitale – Liberal Ecology Party (only Italian citizenship) (2014)

Nguyena Cong Hunga – Civic Democratic Party/ODS (Vietnamese origin, but with the Czech citizenship) (2014)

Local Elections

EU citizens have to run as non-partisans (independents) either on the party list or on the list of independent candidates. However, an association of independent candidates has to submit a petition in support of the candidacy with the signatures of 7% of inhabitants of a given municipality. For example in the case of Prague, the candidate list of independent candidates had to submit a petition with more than 90,000 signatures (Prague has 1.3 million inhabitants). Note, that the required amount of signatures is derived from the number of all inhabitants, including those without voting rights (esp. those younger than 18 years). The required percentage is smaller in the case of independent candidacies and varies according to the size of municipality.

All voters entitled to vote in municipal elections have the right to be elected to the municipal council. No special regulation for non-citizen residents applies except for mayors, deputy mayors, and Prague city councilors who have to be of Czech citizenship.

There seem to be unfriendly environment for candidacy of foreigners in local elections. For example, the Representative of the German minority in the Czech Republic mentioned that even Czech citizens of German origin do not mention their origin. According to Antoš's estimate based on responses from municipalities and their extrapolation for the whole country, there were 14 EU citizens running as candidates in the 2010 municipal elections and two of them were elected.¹⁹

2.5. Turnout

¹⁹ Antoš, Marek. 2012. "Politická participace cizinců v ČR." *Politologický časopis* 19(2): 113–127; Antoš, Marek. 2012. "EU citizens and elections in the Czech Republic: hostile legislation, poor turnout.," available at SSRN: <https://ssrn.com/abstract=2451281> or <http://dx.doi.org/10.2139/ssrn.2451281>

EP Elections

There is neither official information, nor estimates on the turnout of non-citizen residents in EP elections. According to the Ministry of Interior (personal communication), in the 2014 EP election there were 689 EU citizens registered to vote (1% of those with permanent residence) and 406 voted. Among registered voters the turnout was 59%.

In previous EP elections, there were no political debates or media reports on participation of non-citizen residents in EP elections.

Local Elections

There is neither official information, nor estimates on the turnout of non-citizen residents in municipal elections. According to Kamil Švec (a political scientist from the Faculty of Social Sciences, Charles University), there were around 2,000 foreigners participating in 2014 municipal election (based on the master thesis submitted at the Faculty of Social Sciences, Charles University, not found)²⁰. Electoral participation was less than 3% of those EU-citizens with permanent residence.

²⁰ Source: https://zpravy.idnes.cz/poslanci-hraji-o-118-tisic-novych-volicu-z-ciziny-f54-/domaci.aspx?c=A161117_200032_domaci_fka

3. Non-resident Citizens' Franchise in National and EP Elections when Residing in Other EU Member States

3.1. Overview of Relevant Administrative Regulations

EP Elections

European Parliament elections are regulated by Act no. 62/2003 Coll., on European Parliament elections, and by Decree no. 409/2003 Coll., on implementation of an Act no. 62/2003 Sb., on European Parliament elections.²¹

National Elections

National elections are regulated mainly by the Act no. 247/1995 Coll., on elections to the Parliament of the CR. This law contains details about voter registration, candidacy, campaign finance, electoral system, and the role of state administration and municipalities in running the election. Several issues connected to the organization of elections and the role of state institutions are covered in Decree no. 233/2000 Coll., on implementation of Act no. 247/1995Sb., on elections to the Parliament of the CR. For presidential elections, the main legislation is Act no. 275/2012 Coll., on elections of the President of the CR, and Decree no. 294/2012 Coll., on implementation of an Act no. 275/2012 Coll., on elections of the President of the CR.²²

3.2. Voter Registration

For all types of national elections and EP elections, Czech citizens living abroad have to be registered at the embassy in the Special list of voters. To apply to be included in the Special list of voters, Czech citizens living abroad have to submit ID documents proving their Czech citizenship (passport, Czech ID card) and a proof of residence in a new country within 40 days prior to elections (Act no. 247/1995 Coll., on Parliament elections, paragraph 6). It is allowed to submit the application personally or by post. Once a voter is enrolled in the Special list of voters, he is automatically deleted from the Permanent list of voters run by municipality where the voter has been registered before. Once registered in the Special list of voters, Czech citizens are automatically registered for all subsequent national elections without a need to re-apply.

If a Czech citizen living abroad keeps his permanent residence in the Czech Republic, he can vote in the Czech Republic in person, in the municipality where he has permanent residence.

²¹ The actual and past versions of the law and decree are accessible at: <https://www.zakonyprolidi.cz/cs/2003-62>; <https://www.zakonyprolidi.cz/cs/2003-409>.

²² The actual and past versions of the laws and decrees are accessible at: <https://www.zakonyprolidi.cz/cs/1995-247>; <https://www.zakonyprolidi.cz/cs/2000-233>; <https://www.zakonyprolidi.cz/cs/2012-275>; <https://www.zakonyprolidi.cz/cs/2012-294>.

EP Elections

For EP elections, Czech citizens living abroad have to be registered at an embassy in the Special list of voters. Once registered in the Special list of voters, Czech citizens are automatically registered for all subsequent national elections without a need to re-apply. Based on this registration, they may apply for a voter card with which they can vote in any polling district in the Czech Republic. The application for a voter card has to be submitted up to 7 days prior to elections (Act no. 62/2003 Coll., on European Parliament elections, paragraph 30). For EP elections, there is no voting abroad at the embassies.

National Elections

For all types of national elections, Czech citizens living abroad have to be registered at the embassy in the Special list of voters. Once registered in the Special list of voters, Czech citizens are automatically registered for all subsequent national elections without a need to re-apply.

For presidential and Chamber of Deputies elections, Czech citizens living abroad are allowed to vote at the embassies. Voting at embassies is not available in the Senate elections. Practical issues are the cause of the different regime for the Senate and Chamber of Deputies elections. First, the Senate elections take place every two years in one third of the constituencies (27 contests). Second, the electoral system is two-round majoritarian. And third, turnout is very low in the Senate elections and since 2010 less than 20% of registered voters participate in the second round of elections when there are no concurrent elections.

Moreover, Czech citizens living abroad may also apply for a voter card at the embassy allowing them to vote personally in any electoral district in the CR or at any embassy (in the case of presidential and Chamber of Deputies elections). This application has to be submitted by post or personally until 7 days prior to elections. Before this application, a citizen has to be included in a Special list of voters (Act no. 247/1995 Coll., on Parliament elections, paragraph 6a). In case of the Senate elections, Czech citizens living abroad have to apply for a voter card, come to the Czech Republic, and then may vote in any Senate constituency. As the voter votes using a voter card in the Czech Republic, this vote is not registered separately as a vote from abroad. In effect, there is no information on the turnout of Czech citizens living abroad.

3.3. Turnout

EP Elections

Voting at embassies does not apply in EP elections. Czech citizens living abroad can vote only personally at any electoral district in the Czech Republic using a voter card. There is no separate disaggregation of the electoral results based on this criterion. There are no election results and turnout statistics for voting in EP elections of Czech citizens living abroad.

National Elections

Czech citizens living abroad have been allowed to vote since 2002 (based on Act no. 204/2000 Coll., amending Act no. 247/1995 Coll., on Parliament elections). They have to register to vote. Once Czech citizens living abroad are registered at the embassy, they are automatically kept in the records and registered to vote unless they change their country of residence. However, since 2010, Czech citizens who travel abroad are allowed to vote using a voter card. The application has to be submitted within a week before elections. In effect, since 2010 the official election results contain information about both Czech citizens living abroad and Czech citizens travelling abroad during the election.

For Chamber of Deputies (CHoD) elections, there is an increase in the number of registered voters (see Table 2). The same applies for the number of participating voters, however, the number slightly decreased in the 2017 election despite a growing number of registered voters. The one-off active registration system used at embassies leads to the growing number of Czech citizens who are kept registered, even though they lost interest in politics, got very old, moved to another country, or even died without the state knowing. This could explain the declining turnout among registered voters.

Numbers for presidential elections show an interesting pattern. Within two weeks between the first and second round of presidential elections, there is a huge boost in the number of registered voters. As the registration ends 40 days before the election (1st round), it seems that the increase in the number of registered voters is caused by the Czech citizens living in the CR, who travel abroad at the time of the second round of elections and who use voter cards to vote abroad. However, as the difference between those registered for the 1st and 2nd round is smaller than the difference between those participating in the 1st and 2nd round, it suggests that some registered voters voted only in the second round. Presumably, they expected the second round to be more important.

Moreover, there was a decrease in the number of registered Czech citizens voting abroad from 10,667 in the June 2010 Chamber of Deputies election to 8869 in the January 2013 Presidential election (1st round). This is explainable only by the same factor as the increase in the number of registered voters between first and second round of presidential election (decline is presumably cause by the decline in the number of voters using a voter card).

Table 2. Registration and electoral participation of non-resident citizens

	CHoD 2002	CHoD 2006	CHoD 2010	CHoD 2013	CHoD 2017
registered	4135	8041	10667	14132	14990
participated	3763	6744	8222	10571	10527
%	91	84	77	75	70

	PRES 2013-1	PRES 2013-2	PRES 2018-1	PRES 2018-2
registered	8869	10706	17035	21579
participated	5567	7731	12475	17507
%	63	72	73	81

Voting at embassies is not available in the Senate elections. Czech citizens living abroad can vote only personally at any electoral district in the Czech Republic using a voter card. There is no separate disaggregation of the electoral results based on this criterion. There are no election results and turnout statistics for voting in the Senate elections of Czech citizens living abroad.

The interpretation of voting patterns of Czech citizens voting abroad is based on the comparison of election results among non-resident citizens and total results for the Czech Republic. There seem to be a clear socio-economic and cultural gap in how non-resident citizens vote. They support strongly right-wing (ODS, TOP09), pro-European (TOP09, Greens) and culturally liberal (Greens, Pirates) parties and candidates (candidates Swarzenberg and Drahoš in Presidential elections have gained almost 9 in 10 votes against current President Miloš Zeman). Left-wing parties (ČSSD, KSČM) and populists are lacking support among non-resident citizens. This leads to lack of enthusiasm of left-wing parties and populists to support postal voting for citizens living abroad as this move would not be to their benefit.

4. Conclusion

There are several obstacles for electoral participation of EU citizens in the Czech municipal and EP elections. They seem to be all based on the lack of interest among the Czech political representation (esp. left-wing and populist parties) concerning the broader role of EU citizens in the Czech political system. Moreover, one interviewee mentioned off the record that the negative position stems also from the fear of mayors and politicians from areas with concentrated minorities of Poles or Slovaks who are predominantly Catholics and who could support religious-based candidates in municipal elections.

The main obstacles include:

1. There is no automatic registration of EU citizens for the Czech elections. Ministry of Interior (through Czech Alien Police) registers all foreigners with permanent and temporary residence and is able to provide this information to

municipalities, so that they could include these citizens in the List of voters. This creates inequality between Czech citizens and EU citizens.

2. There is no automatic registration for EP elections, once an EU citizen registers for municipal election (and vice versa). However, the difference is justified by the need to cancel the registration of EU citizens for EP elections in their previous country.
3. Lack of information about the registration procedure among EU citizens, esp. for EP elections. According to the representative of European Parliament delegation in Prague, EU citizens assume they are automatically registered for EP election. EP delegation received such complaints during previous EP election.
4. Registration by EU citizens for EP elections has to be submitted 45 days prior to election. Compared to other states, this seems longer than necessary.
5. The Czech election legislation differentiates permanent and temporary residence of foreigners and doesn't allow voting in municipal elections for EU citizens with temporary permit. However, according to the Guidelines of the Ministry of Interior, the Ministry also allows the registration of EU citizens with temporary residence. These Guidelines of the Ministry of Interior contradict the Law on Municipal elections.
6. Non-citizens are not allowed to become members of political parties. In effect, this restricts their candidacy rights as running on the party list is easier.

Czech citizens living and working abroad have voting and candidacy rights. For presidential and Chamber of Deputies elections, citizens are allowed to vote at embassies. In Senate and EP elections, Czech citizens abroad vote in-country using voter cards; there is no voting at the embassies. Despite several legislative attempts, there is no postal voting for Czech citizens staying abroad. Policy recommendations can be easily derived, but they require changes in legislation:

Based on the above-mentioned obstacles, several policy recommendations can be suggested (some of them require a change in legislation):

1. Introduction of automatic registration for EU citizens with permanent and temporary residence in the Czech Republic for municipal elections.
2. Information campaigns organized by the Ministry of interior for EU citizens concerning their right to vote and registration procedures. The most direct methods include sending letters to each EU citizens several months before election about the electoral rights and registration procedure. Besides, EU citizens may be given a leaflet with election specific information when applying for the permanent/temporary residence. Another possibility is to cooperate with foreign embassies on the dissemination of election specific information. From the interviews, it seems that the EC delegation and Ministry of Interior informs ambassadors so that embassies inform their own citizens about the right to vote and registration procedure.
3. Amendment of the Municipal election law to allow EU citizens with temporary residence to vote (to be passed soon; Chamber of Deputies has already passed the amendment).

4. Amendment of the election laws to ease voting for the Czech citizens living and working abroad. Postal voting for the Czech citizens living abroad should be passed next year. There is a skepticism towards voting at embassies for EP elections. However, according to Ministry of Interior officials it seems that introduction of postal voting for EP election will do the same job.

Appendix

Table A1. Number of non-citizen residents since 1996 (regional composition).

	1996	2000	2005	2010	2015	2016
Prague	61 203	57 583	89 997	148 447	171 408	184 264
Central Bohemia	22 413	26 993	35 304	57 757	61 682	64 815
Southern Bohemia	9 175	8 088	10 595	15 037	16 390	17 590
Pilner region	8 670	8 913	13 206	25 175	27 304	29 331
Karlsbad region	7 670	10 439	14 437	19 617	19 073	19 395
Ustí region	13 985	14 427	22 130	30 578	32 612	33 593
Liberec region	8 446	8 794	11 675	16 776	17 894	18 705
Hradec Králové region	8 418	8 117	11 294	14 798	13 683	14 348
Pardubice region	5 335	5 648	6 418	12 063	12 011	13 305
Vysocina	3 739	4 198	6 160	8 023	8 050	8 437
Southern Moravia	14 723	16 813	24 234	35 953	40 366	43 447
Olomouc region	6 037	6 197	7 497	9 465	10 413	10 889
Zlin region	6 558	7 057	5 926	8 032	8 538	8 838
Morava-Silesia region	22 779	17 684	19 337	22 570	24 493	25 547
Total	199 151	200 951	278 210	424 291	463 917	492 504

Source: The Czech Statistical Office.

https://www.czso.cz/documents/10180/67291237/29002717_t1-02.pdf/95ce3879-a549-471f-86ff-1d05316c0cf6?version=1.1.

Table A2. Number of non-citizen residents according to EU origin.

	2008	2009	2010	2011	2012	2013	2014	2015	2016
EU	148154	139373	137830	153763	163137	173593	184511	195499	208166
other	289411	293130	286461	280390	272809	265596	264856	269171	285275
unknow	621	607	1675	639	1283	1148	993	856	817
total	438186	433110	425966	434792	437229	440337	450360	465526	494258
percent EU	33,8	32,2	32,4	35,4	37,3	39,4	41,0	42,0	42,1

Source:

https://www.czso.cz/documents/10180/67291237/29002717_t1-01.pdf/986069d3-16ad-4b37-b967-00818fa0e1d4?version=1.1

Note: The total numbers slightly differ from those in Table A1 due to unknown nature of regional affiliation.

Table A3. Number of non-citizen residents in 2016 (age and sex composition).

age	non-citizen residents (N)	female (N)	male (N)	male (%)
0-4	18 241	8 858	9 383	51
5-9	18 732	9 162	9 570	51
10-14	14 287	6 858	7 429	52
15-19	18 728	9 462	9 266	49
20-24	31 940	16 460	15 480	48
25-29	46 421	22 313	24 108	52
30-34	66 027	29 955	36 072	55
35-39	64 015	27 774	36 241	57
40-44	56 440	23 148	33 292	59
45-49	46 226	17 205	29 021	63
50-54	38 430	13 911	24 519	64
55-59	29 369	10 772	18 597	63
60-64	19 380	7 995	11 385	59
65-69	11 576	4 960	6 616	57
70-74	5 957	2 543	3 414	57
75-79	3 771	1 848	1 923	51
80-84	2 021	1 094	927	46
85-89	1 110	668	442	40
90-94	558	366	192	34
95+	212	144	68	32
Total	493 441	215 496	277 945	56

Source:

https://www.czso.cz/documents/10180/67291237/29002717_t1-08.pdf/fc0dfc2b-8c3d-44cd-a6d9-daa827c14476?version=1.1.

Note: The total numbers slightly differ from those in Table A1 due to unknown nature of age and sex of non-citizen residents.

