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REPORT ON POLITICAL PARTICIPATION OF MOBILE EU CITIZENS: GREECE

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Report on Political Participation of Mobile EU Citizens

Greece

Dimitris Christopoulos *

Abstract:

There are a number of challenges to political participation of mobile EU citizens in Greece. The right of non-resident Greek citizens to vote in national elections from abroad has never been implemented despite of being constitutionally enshrined. Moreover, the voting rights in European Parliament elections is restricted to residents in another EU Member State, and does not apply to people living in third countries. Non-citizen residents from the EU have the right to vote and to stand as candidates in European Parliament elections and local elections.

For non-resident citizens and non-citizen residents, a major challenge is the fact the voters are not automatically registered. A potential reform could introduce rules regarding a single registration of EU citizens residing in Greece in special electoral lists of the municipality of residence to avoid renewal of registration before every election. This could be an incentive for the participation of EU citizens elections and enable municipal campaigning focusing at this target group.

Περίληψη:

Υπάρχει ένας αριθμός εκκρεμοτήτων για την πολιτική συμμετοχή των κινουμένων πολιτών της ΕΕ στην Ελλάδα. Το δικαίωμα των Ελλήνων πολιτών που δεν κατοικούν στην Ελλάδα να ψηφίζουν στις εθνικές εκλογές από το εξωτερικό δεν έχει ποτέ εφαρμοστεί, αν και είναι συνταγματικά κατοχυρωμένο. Περαιτέρω, τα πολιτικά δικαιώματα για τις εκλογές του Ευρωπαϊκού Κοινοβουλίου αφορούν τους κατοίκους άλλων κρατών μελών της ΕΕ και δεν ισχύουν για άτομα που ζούνε σε τρίτες χώρες. Οι μη πολίτες κάτοικοι από την Ευρωπαϊκή Ένωση έχουν το δικαίωμα του εκλέγει και του εκλέγεσθαι για την εκλογές του Ευρωπαϊκού Κοινοβουλίου και τις δημοτικές εκλογές. Για τους μη κάτοικους πολίτες και μη πολίτες κάτοικους, η βασική εκκρεμότητα είναι το ότι δεν είναι αυτομάτως εγγεγραμμένοι στους εκλογικούς καταλόγους. Μια δυναμική μεταρρύθμιση θα μπορούσε να εισαγάγει κανόνες μιας απλής εγγραφής για πολίτες της ΕΕ που ζούνε στην Ελλάδα σε ειδικούς εκλογικούς καταλόγους του δήμου ώστε να αποφεύγεται η ανανέωση της εγγραφής κάθε φορά πριν τις εκλογές. Αυτό θα μπορούσε να είναι ένα κίνητρο για την πολιτική συμμετοχή των πολιτών της ΕΕ και για την πολιτική κινητοποίηση των Δήμων που θα εστιάζει σε αυτή την ομάδα στόχου.

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1. Introduction

There are a number of challenges to political participation of mobile EU citizens in Greece. Non-resident Greek citizens have the right to vote and to stand as candidates both in national and European Parliament elections (see Table 1). However, although the right to vote in national elections from abroad is guaranteed by the constitution, it has never been implemented. Moreover, the voting rights in European Parliament elections is restricted to residents in another EU Member State, and does not apply to people living in third countries. The voter registration is not automatic and Greeks abroad can vote remotely only in European Parliament elections, when personal voting at diplomatic missions is allowed.

Non-citizen residents from the EU have the right to vote and to stand as candidates in European Parliament elections and in local elections. However, voter registration is not automatic in these types of elections. Moreover, in theory, EU citizens residing in Greece have to demonstrate elementary knowledge of the Greek language in order to vote, and sufficient knowledge of Greek in order to stand as candidates. However, in practice, there is no control mechanism that enables the Greek administration to evaluate the language capacities of voters or candidates in European Parliament elections and in local elections.

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

Type of voter	Election type	Right Voting	Right Candidacy	Automatic registration	Remote voting
Non-resident citizens	National Legislative	YES ¹	YES	NO	NO
Non-resident citizens	European Parliament	NO ²	YES	NO	YES ³
Non-citizen residents	Local Legislative	YES ⁴	YES ⁵	NO ⁶	NA
Non-citizen residents	Local Mayoral	YES ⁷	YES ⁸	NO ⁹	NA
Non-citizen residents	European Parliament	YES ¹⁰	YES ¹¹	NO	NA

¹ Yes by constitution, but never implemented. Since residence has no meaning in Greek electoral law, de facto in-country voting is thus still possible at the polling station of the municipality where one is registered.

² Except for citizens residing in another EU Member State.

³ In-country voting and personal voting at diplomatic missions is allowed.

⁴ The condition is that EU citizens residing in Greece can demonstrate 'elementary' knowledge of the Greek language (although this condition is, in practice, not systematically evaluated by relevant authorities)

⁵ The condition is that EU citizens residing in Greece can demonstrate 'sufficient' knowledge of the Greek language (although this condition is, in practice, not systematically evaluated by relevant authorities).

⁶ Greek citizens are automatically registered and have the obligation to vote whereas EU citizens voluntarily register to their municipality of residence. Once registered, the principle of mandatory voting also applies to EU citizens

⁷ The condition is that EU citizens residing in Greece can demonstrate 'elementary' knowledge of the Greek language (although this condition is, in practice, not systematically evaluated by relevant authorities)

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

Non-citizen Residents

Today, in Greece, 134,145 registration cards have been issued by the police for a total of 180,025 non-Greek EU citizens residing in the country.¹² The police authorities have to date also issued 42,046 certificates of permanent residence for non-Greek EU citizens.¹³ This means that, in total, the sum of non-Greek EU citizens with registration cards or with permanent residence permits amounts to 222,071.

According to the National Census results of 2011, the Greek population of 10,816,286 comprises 199,121 citizens of other EU Member States. The top five countries of origin with the most citizens present in Greece are illustrated in Table 1 below. These five states add up to a total of 166,422 citizens, representing 84% of the number of the citizens of other EU Member States.¹⁴

Table 1. Citizens of other EU Member States: top five countries with the highest number of citizens present in Greece, according to the National Census (2011)

Bulgaria:	75,917
Romania:	46,524
United Kingdom:	15,388
Cyprus:	14,448
Poland:	14,145

The actual number of EU nationals residing in Greece for longer periods of their life or permanently is probably much higher. This is mainly due to the fact that in Greece undeclared work is widespread, and the underground/informal economy is estimated at 25-30% of the GDP. Studies indicate that the number of EU nationals from Bulgaria, Romania and Cyprus residing in Greece is higher than what it appears in the national statistics, and that very few Bulgarian and Romanian Roma citizens, for example, apply for registration. A recent study

¹² The Presidential Decree 106/2007 “Free circulation and residence in Greece of citizens of the EU and their family members” provides (in Article 6) that EU citizens and their family members who do not possess the Greek nationality have the right of residence in Greece for a maximum period of three months after their arrival only if they hold a valid Identity Card or a passport. According to the same Decree (Article 8), non-Greek citizens of the EU Member States who intend to reside in Greece for a longer period than three months, are obliged to apply for registration before the police authorities of their place of residence. 134,145 of such registration cards have been issued for a total of 180,025 non-Greek EU citizens residing in the country, according to the European Commission’s report on the application of Directive 94/80/EC on the right to vote and to stand as a candidate in municipal elections. This equals to 1.95% of the total population of voting age in the country. European Commission, Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the application of Directive 94/80/EC on the right to vote and to stand as a candidate in municipal elections, Brussels January 2018, available at: <https://ec.europa.eu/transparency/regdoc/rep/1/2018/EN/COM-2018-44-F1-EN-MAIN-PART-1.PDF>

¹³ According to the Presidential Decree (Article 13) mentioned above, citizens of the EU who reside in Greece for a period of five years, have the right to permanent residence. The statistics cited originate from: 4000/1-228332 (6/6/2018) Document of the Head Quarters of the Hellenic Police as response to our request.

¹⁴ The official results of the Greek census of 2011

https://www.statistics.gr/documents/20181/1210503/A1602_SAM01_DT_DC_00_2011_03_F_GR.pdf/e1ac0b1c-8372-4886-acb8-d00a5a68aabe (pages 10-12)

(2012) estimated the actual number of Bulgarian residents in Greece to be twice as high as the official figures of registration certificates and permanent status holders.

There are no reliable statistics available to the geographical distribution, age, gender and employment status of non-national EU citizens resident in Greece.

Table 1. Number of new residence permits issued to EU Citizens per year in Greece: 2008-2012.¹⁵

Nationality	Type of residence permit ¹⁶	2008	2009	2010	2011	2012
Bulgarian	a	1,815	976	442	1238	4,119
	b	10,771	13,188	6,201	3,932	2,313
Romanian	a	876	445	266	719	2,453
	b	9,652	9,403	5,000	3,673	2,269
U.K.	a	290	440	575	569	402
	b	749	942	1,027	995	883
Polish	a	112	623	1,093	810	471
	b	1,576	1,823	1,371	1,067	690
German	a	307	344	347	378	330
	b	624	814	702	495	424
Cypriot	a?	291	615	816	535	304
	b	621	539	502	430	380
Italian	a	205	223	180	228	211
	b	412	394	406	366	298
Other nationalities ¹⁷	a+b	2,091	2,880	2,816	2,412	1,964
Total	a+b	30,392	33,649	21,744	17,847	17,511

Remarks:

- The malfunctioning of the Greek administration discouraged many EU nationals to contact the relevant police offices to obtain their registrations during the financial crisis in 2009-2010?. This attitude obviously also applied to EU voters residing in Greece, a fact which can partially explain the considerably lower number of EU citizens voting in

¹⁵ Source: L. Baltziotes, D. Christopoulos, G. Tsioukas, Third Focused study 2012, Intra EU Mobility of Third Country Nationals – National Contribution of Greece, Implemented by the European Centre for European Constitutional Law: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/intra-eu-mobility/11a.greece_national_report_intra-eu_mobility_final_jan2013_en.pdf

¹⁶ In the table above, the first figure indicates registration certificate holders (a) and the second one permanent residence status holders (b).

¹⁷ In “Other nationalities” the (a) number is always significantly smaller compared to the (b) number, with the exception of the Dutch nationals.

the EP and municipal elections, when compared with the aforementioned total number of residents.

- EU nationals from the neighbouring Balkan States (Bulgarians and Romanians) represent two-thirds of the total number of non-national EU citizens residing in Greece. Unlike most of the other EU nationals, a considerable number of Romanians and particularly Bulgarians residing in Greece belong to excluded social strata (mostly Roma) with disproportional difficulties of social integration in the country. This factor might also partly explain the particularly low turn-out of EU citizens residing in Greece in the EP elections.
- The high number of Cypriot nationals should be seen as result of the close national ties between Greece and Cyprus.
- The rather small number of Polish nationals is the result of the continuous trend of their return to Poland or migration to other EU countries.

Non-resident citizens

According to the 2011 census, the population of Greece is 10,816,286.¹⁸ We are not in a position to know to what extent the population of the country has fallen since then. However, it is reasonable to speculate that a sizeable part of the population that is certainly measured in the hundreds of thousands – some would argue around 450,000¹⁹ - has emigrated from the country because of the economic crisis.

According to the 2011 census, the population between the age of 0 to 19 years old is larger than 2,100,000. The number of inhabitants of Greece who are children between the age of 0 and 14 years old is 1,569,268, and those between 14 and 19 years old is 553,276. From the above, we can assume that the 18-year-old inhabitants of the country, foreigners and nationals combined, amount to about 100,000. Therefore, the population of the country that does not belong to the electorate, due to being minors, is around 2,000,000. To the Greek population that does not belong to the electorate should - of course - be added the aliens residing in Greece who amount to about 900,000.

As a result of the 2011 census, fewer than three million of the nearly 11 million who live in Greece do not belong to the electorate. On the other hand, according to the electoral lists of the national elections in June 2015, voters were slightly less than ten million (9,911,495). From the above comparison, it logically follows, that around two million Greek citizens belonging to the electorate of Greece are do not reside in Greece.

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

Non-citizen Residents

¹⁸ <http://www.statistics.gr/2011-census-pop-hous>

¹⁹ <http://greece.greekreporter.com/2017/03/08/brain-drain-450000-greeks-left-the-country-in-past-8-years/>

The EU Council Directive 94/80/EC on local elections, as well as the Council Directive 93/109/EC on EP elections for EU citizens residing in Greece have been integrated into Greek law by virtue of the Presidential Decree 133/97 and Law 2196/94 respectively.

As a general condition for voting rights in local elections, every EU citizen must register in *Special Electoral Lists*. The registration procedure is simple: voters must submit a request to the municipality of their residence along with their passport.²⁰

As a general rule, the Greek government has shown concern about the effective transposition of EU directives into the Greek legal order. EU voters vote at the same polling stations as Greek citizens. They have the right to run only for the office of municipal or departmental councillor and not for any other position, such as the mayor or chairperson of the municipal council (Article 5(3) Directive 94/80 and Article 3, para. 11 of the Presidential Decree 133/97). For the exercise of their right to run for municipal councillor, EU citizens must submit a *solemn declaration (Ypefthini Dhilosi)* that they possess electoral rights in their country of nationality. The voters must have an ‘elementary knowledge of the Greek language’, whereas the candidates must have ‘sufficient’ knowledge of it. The certification of this knowledge is entrusted to the supervisory committee at the polling station. However, in practice, language tests do not seem to be available.

Electoral rights of foreign residents were not an issue for Greek politics until 2010. The introduction of Law 3838/2010 marked a great reform of the Greek Nationality Code, as well as establishing the right to vote and to run as a candidate in local elections for foreign residents. The official title of the Law was ‘*Current provisions for Greek Nationality and the political participation of homogeneous and legally residing migrants and other provisions*’. Chapter B of the Law (Articles 14-21) provided a detailed list of categories of foreign residents that might acquire voting rights and the right to be voted for at the municipal elections under certain conditions. In brief, the Law distinguished two large groups of non-nationals:

1. the population of ethnic Greeks with non-Greek nationality, the *homogeneis* (Christopoulos, 2006).
2. the group of foreign residents who are not *homogeneis*, whom Greek legislation qualifies as *allogeneis* (of non-Greek origin).

This latter group includes holders of a residence card of indefinite duration, that is, long-term residents, such as: family members of EU citizens, parents of Greek citizens, political refugees and officially recognised stateless persons residing in the country for five years (Article 14).

On 1 February 2011, the Fourth Chamber of the State Council (*Symvoulío tis Epikrateias*) questioned the constitutionality of Law 3838/2010 concerning third-country nationals’ right to vote in local elections and the automatic *ex lege* acquisition of Greek citizenship by second-generation immigrants. In February 2013, the Plenary Session of the Greek Council of State confirmed the earlier ruling by the Fourth Chamber on the constitutionality of the Law. At the core of the ruling, the Council found that both the automatic access to Greek citizenship for children of immigrants and the extension of the right to participate in municipal elections by non-citizens violated the ‘constitutionally enshrined principle of sovereignty of the Greek people’. The law was “frozen” (non-applicable, although formally still valid) by an Executive Decision of the Minister of Interior,

²⁰ As documented by relevant Circulars of the Ministry of Interior, before the 2006 local elections, 2009 and 2014 EP elections, the aim is to facilitate voting rights by EU citizens both at EP and municipal elections.

and was replaced in July 2015 by Law 4332/2015. The new law does not provide voting rights for non-EU nationals in Greek municipal elections.

Non-resident Citizens

Ever since the foundation of the modern Greek State, voting rights of Greek citizens abroad have been a highly topical issue on the Greek political agenda. It is fascinating therefore, that despite its historical place in public debate, Greek citizens abroad still do not possess any means to exercise their voting rights for national elections.

The discussion on the electoral rights of expatriates is over the legal techniques the state will use to facilitate the Greek diaspora's absentee political participation. This question has preoccupied the Greek political scene merely as a matter of constitutional mechanics: in what way could the constitutional provision of the Article 51, para. 4 (*"Matters pertaining to the exercise of the right to vote by persons living outside the Country may be specified by law"*) be implemented? Article 51, para. 1, as amended in 2001, provides that:

Parliamentary elections shall be held simultaneously throughout the Country. Matters pertaining to the exercise of the right to vote by persons living outside the Country may be specified by statute, adopted by a majority of two thirds of the total number of Members of Parliament. Concerning such persons, the principle of simultaneously holding elections does not impede the exercise of their right to vote by postal vote or by other appropriate means, provided that the counting of votes and the announcement of the results is carried out when this is also carried out across the Country.

Despite this provision, no statute defining such electoral rights has yet been passed. On the other hand, residence in the country is not a condition for casting a vote or running as a candidate. The so-called 'permanent residents overseas' can equally vote and run as candidates without any legal obstacles, apart from the fact that they have to travel back to Greece to exercise their rights.

The only exception to the aforementioned situation is the right of Greek citizens who are residents of another EU country to participate at the EP elections in their country of residence.

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

2.1. Overview of relevant administrative regulations

The legal basis for the right to vote in Greece is the registration at the municipal electoral rolls (*Demotologia*) of any Greek municipality. By virtue of Law 2623/1998, the electoral lists were redrafted according to the *Demotologia* of all Greek municipalities. Ever since, every voter possesses a Special Electoral Number, unique and permanent for each citizen. The same procedure is followed for Greek residents overseas.

There is no uniform institutional framework regulating the participation of non-national EU citizens in national, municipal and EP elections. The institutional framework concerning participation of non-national EU citizens in the different electoral processes varies depending on the type of election: local, national or EP. The fundamental premises are provided by the Greek Constitution.

The provisions forming the constitutional premise, the normative basis for national elections are important to understand the electoral rights of the EU citizens in Greece. The legislation in force concerning the election of members of the National Assembly is codified in the Presidential decree 26/2012. The right to elect is regulated in article 4 and article 51 of the Greek Constitution. According to it:

“ (...) 2. The Members of Parliament represent the Nation. 3. The Members of Parliament shall be elected through direct, universal and secret ballot by the citizens who have the right to vote, as specified by law. The law cannot abridge the right to vote except in cases where a minimum age has not been attained or in cases of legal incapacity or as a result of irrevocable criminal conviction for certain felonies. 4. Parliamentary elections shall be held simultaneously throughout the State. Matters pertaining to the exercise of the right to vote by persons living outside the Country may be specified by law. 5. The exercise of the right to vote shall be compulsory.”

The right to be elected is regulated in article 29 of the Presidential Decree in combination with the article 55 of the Greek Constitution according to which:

“1. To be elected as Member of Parliament, one must be a Greek citizen, have the legal capacity to vote and have attained the age of twenty-five years on the day of the election. 2. A Member of Parliament deprived of any of the above qualifications shall forfeit his parliamentary office ipso jure. “

The aforementioned articles of the Greek Constitution constitute the normative core of the exercise of political rights in the country. Although they do not explicitly refer to non-national EU citizens, *a priori* they obviously affect the political participation of non-national EU citizens, by setting the fundamental rules of the electoral procedure.

EP Elections

The right to vote in EP elections is regulated by Article 1 of Law 4255/2014, which refers to Articles 4-6 of the Presidential Decree 26/2012 for Greek citizens and to the Law 2196/1994 for non-national EU citizens. Guaranteeing the right to vote and the right to be elected for non-national EU citizens are generally considered as among the top priorities of the Greek

administration (Ragkousis, 2018).²¹ In theory, EU citizens residing in Greece have to demonstrate elementary knowledge of the Greek language in order to vote, and sufficient knowledge of Greek in order to stand as candidates. However, in practice, there is no control mechanism that enables the Greek administration to evaluate the language capacities of voters or candidates.

The right to vote is provided for EU citizens who:

- Reside in Greece and have reached the age of 18 in the year of the election (until 31 December of the election year).
- Have not been denied the right to vote in Greece and their home Member State.
- Are enrolled in the Special Electoral Lists of a municipality of the Greek state for a certain period before the elections. For example, EU citizens had to have been registered for the European Parliament elections held in June 2014 before 28 February 2014.

Local elections

EU citizens do not have the right to vote and to stand as a candidate in regional elections, but only in municipal elections. The right to vote and to stand as a candidate in regional elections is reserved for Greek citizens, according to Article 116 of Law 3852/2010. The elections for the Regional Council and the Secretaries of the 13 Greek regions are considered as intimately connected to Greece's national sovereignty and therefore no alien is allowed to participate. Yet, it should be noted that the Committee for the Review of the Institutional Framework of Local Government, established by Article 5 of Law 4368/2016, published a proposal, recommending to the Minister of the Interior, inter alia, the extension of the right to vote and to stand as a candidate in the regional elections, at least for non-national EU citizens. For third-country nationals, the Commission, although advocating for the reintroduction of the 2010 regulation, suggested that the matter should be considered in the constitutional review under discussion, given the State Council ruling (460/2013).²² This proposal has not yet been presented to the Greek Parliament.

The right to vote in the municipal elections is regulated in general by Law 3852/2010, and in particular Article 10 paras. 1 and 2 thereof, according to which:

*"1. All citizens of the municipality have the right to vote in municipalities.
[...] 2. Citizens of the Member States of the European Union as well as expatriate and legally residing foreign nationals of third countries have the right to elect municipal authorities in accordance with article 14 of*

²¹ On the website of the Ministry of Interior one reads: "As part of the effort to strengthen actions relating to European citizenship, our country's firm aspirations are the free, equal and active participation of citizens of other EU Member States in decision-making processes both in local societies and in the democratic European Union. Our main orientation in this direction is to provide the widest possible information to the citizens of the Union in order to enhance their participation and presence in the field of representative democracy. The Ministry of the Interior fully endorsing the principle of equality and the objectives of the European Union to strengthen the protection of the rights and interests of its citizens, invites the citizens of other Union Member States residing in Greece to exercise their right to vote and to stand as candidates the upcoming elections to the European Parliament and the municipal elections in 2014." Source: Ministry of Interior, Citizens of the European Union, available at:

www.ypes.gr/el/Elections/ElectionsEuropeanParliament/ElectionsforEuropeanParliament/polites/

²² Proposal on reforming the institutional framework on self-governance in Greece, Athens:

<http://www.ypes.gr/UserFiles/f0ff9297-f516-40ff-a70e-eca84e2ec9b9/TelPorEpitrAnatheorisis-030317.pdf>

Law 3838/2010 (Government Gazette 49 A) who are registered in accordance with the legislation in force on the special electoral rolls ".

As stressed in the introduction, the second paragraph of this Article was applied only once in the 2010 municipal elections, following the decision of the State Council Plenum No 460/2013, article 4 para. 2 of Law 4244/2014 was adopted, according to which: '2. *The provisions of articles 10 par. 2, 12 and 13 par. 2 of Law 3852/2010 do not apply in so far as they concern expatriate and legally residing foreign nationals of third countries ".* In practice this means that third-country nationals have only voted in municipal elections once and, ever since, the only non-Greek citizens who participate in the municipal elections are EU citizens.

EU citizens who reside in Greece and have reached the age of 18 in the year of election (until 31 December of the election year) have the right to vote in municipal elections under the condition that they have not been deprived of voting rights for any reason in their countries of origin or Greece. The voters must have been enrolled in the special electoral lists of a municipality of the Greek state at least three months before the elections. For registration in the special electoral lists, they must go to the municipality of their residence, present a valid identity document (identity card or passport) and fill in the relevant application a Solemn Declaration. Further supporting documents are not required.

2.2 Voter registration

According to the most recent statistical data by category of non-Greek citizens among registered EU voters are as follows²³:

- Municipal Elections (2014): 19,102 non-national EU citizens registered in the electoral rolls
- European Parliament Elections (2014): 13,098 non-national EU citizens enrolled in the electoral rolls

It should be noted that the Ministry of the Interior does not keep records of the voters. Therefore, it is not known how many of the above listed voters have actually exercised their electoral rights. The participation of EU nationals in the municipal elections has never been considered an issue for Greek politics. On the contrary, the participation of non-EU nationals has been a major issue in 2010 and provoked an intense political debate.

Voter registration for municipal elections is not automatic, so voters should be registered before each and every election. This is a major concern of the voters, who sometimes miss the deadlines for the registrations due to miscommunication with the Greek Ministry of Interior.²⁴

2.3. Information during Election Campaigns

²³ Ministry of Interior, Municipal and Regional Elections 2014, information on the registered EU citizen in the electoral rolls, available at: http://www.ypes.gr/UserFiles/f0ff9297-f516-40ff-a70e-eca84e2ec9b9/statistika_dimotikon_eklogon.pdf

²⁴ Personal interviews with the staff of the French and the Dutch Embassy, Athens, May 2018.

The Greek authorities welcome the exercise of electoral rights by EU citizens. Information about the elections is provided by the website of the Ministry in Greek and English.²⁵

The information provided on the website is the following:

“In its efforts to strengthen activities related to European citizenship, the constant pursuit of the Ministry of Interior is free, equal and active participation of citizens of other EU Member States in the decision making process, both in local societies and in the democratic life of the European Union. Our basic orientation in this direction is the widest possible dissemination of information to EU citizens residing in Greece, in order to enhance their participation and presence in the field of representative democracy. The Ministry of Interior fully adopting the principle of equality and the aims of the European Union to strengthen the protection of the rights and interests of EU citizens, invites all citizens of other EU member states residing in Greece, to exercise their right to vote and to stand as a candidate in the forthcoming municipal elections and elections to the European Parliament of 2014. The legal basis for exercising these fundamental rights is Council Directive 94/80/EC ‘Laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in **municipal elections** by citizens of the Union residing in a Member State of which they are not nationals’ and Directive 93/109/EC ‘Laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in **elections to the European Parliament** for citizens of the Union residing in a Member State of which they are not nationals’, which were incorporated into Greek law by P.D.133/1997 as amended and is in force and Law 2196/1994 respectively.”

This is the only information provided online. To our knowledge no further associations, websites or social media forums are mobilised to this perspective.

2.4. Political Parties and Candidacy Rights

EP Elections

The right to stand as candidate for EP election is reserved for the EU citizens residing in Greece who have reached the age of 25 on the day of the election and have not been deprived of their right to stand as a candidate in their own country and the right to vote in Greece. For the exercise of the right to stand as a candidate, the candidates must first submit the same supporting documents that are required for Greek candidates, as defined in Article 3 (3) of Law 1180/1981, namely:

- Name, surname, father’s name, address in Greece, as well as a written acceptance of the candidacy
- A Solemn Declaration stating that they are enrolled in the special electoral lists of the municipality where they live; that they have not been deprived of the right to vote in Greece; that there are no obstacles to the election of Article 2 of Law 1180/1981 and if they are civil servants in their country of nationality they have no obligation to stay in that service for a certain period of time

²⁵ Ministry of Interior, Elections: Political Rights in Greece,
<http://www.yypes.gr/en/Elections/CityElections/CitizensofEurope/VotinGreece/>

- A second Solemn Declaration specifying their citizenship, date and place of birth, last domicile in the home Member State and their domicile in Greece. They should also specify the electoral roll of the municipality or community or region where they were last registered in their home Member State.
- They should testify that they are not candidates for the elections of the European Parliament in another Member State.
- They have to state the date since when they are nationals of a Member State.
- A photocopy of a valid identity document (passport or identity card)

The Ministry of the Interior, to verify that the EU citizen applicant has not been deprived of his or her right to stand as a candidate in his or her Member State of origin, notifies the relevant authorities of the relevant Member State to obtain the required information, under Article 6 of Directive 93/109/EC as amended by Article 1(1) of Directive 2013/1/EU. If the information from the home Member State invalidates the content of the application, the Ministry of the Interior and the competent enforcement authorities should take all necessary measures to prevent the candidate's nomination or election or the exercise of his or her duties.

Local Elections

The right to stand for election in municipal elections was regulated in principle by Article 13 para. 1 and 2 of Law 3852/2010, according to which, the single-person offices (mayor and representative of the local community) are reserved for Greek citizens only. By contrast, EU citizens, expatriates and legally residing third-country nationals can be elected as members of collective bodies, namely the office of municipal councillor and councillor of the municipal or local community, in accordance with Article 17 of Law 3838/2010 (Government Gazette 49 A). However, Article 4(2) of Law 4244/2014 has subsequently made this right only available to EU citizens.

Non-Greek EU citizens may run as candidates for the post of municipal councillor, local councillor, local councillor (Article 5(3) of Directive 94/80/EC and Article 3(11) under the following conditions:

- they should not have been deprived of the right to vote in Greece and the right to stand as a candidate in their Member State of origin;
- they have reached the age of 18 on the day of the election;
- they are resident in the district of the municipal or local community where they are running as candidates.

For the exercise of the right to stand for election, the application must be accompanied by the following supporting documents for each candidate, in accordance with the provisions of Article 19 of Law 3852/2010 and the provisions of Article 3, D.133/97:

- Certification of registration in the electoral register of the municipality of an EU Member State or any other document proving the right to vote in an EU Member State.
- Solemn Declaration stating that the applicant has not been deprived of his or her political rights or that the temporary deprivation of these rights has expired or will have expired on the day of the election. The Declaration should also state that the eligibility impediments of article 14 of Law 3852/2010 do not apply.

- a tax collection certificate which proves that the candidate councillors of the municipality (or the municipal district, in which the municipalities with a population of more than 100,000 inhabitants are divided) have paid a fee of €50. This amount is not requested from candidates for community councillors running in municipalities with a population under 100,000 inhabitants (paras. 2 and 3 of Article 2 of Law 3852/2010), as well as for the local community candidate councillors.

In addition to the above, the candidate must also submit a Solemn Declaration stating:

- Nationality and residence address in the Greek territory.
- Candidate councillors in the municipal or local community should also declare that they are residents of the district of the municipal or local community they are candidates for.
- The electoral register of the municipality or community or district or constituency where they were last registered in their Member State of origin.
- That they have not been excluded from the right to stand for election in their Member State of origin.
- That they are not candidates for municipal elections in another municipality in Greece or in another combination of the same municipality
- That they have not been elected to similar local offices in other EU Member States, which would result in incompatibility with their candidacy in Greek elections
- Photocopy of a valid identity document (passport) authenticated by a public authority.
- The date since when they are nationals of a Member State

Mobile EU citizens have not been a particular target of political parties until today. In the 2014 EP elections, the party of SYRIZA put a Bulgarian citizen, Ms Kouneva,²⁶ on the list of its candidates. Ms Kouneva, a trade-unionist and the secretary of the Greek Trade Union of Cleaners and Housekeepers, became a public figure in Greece after having survived from an acid attack against her.

2.5. Turnout

There are no statistics or estimates about the turnout of non-national EU citizens in local and EP elections.

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

²⁶ Kostadinka Kuneva, *European Parliament profile*, http://www.europarl.europa.eu/meps/en/125092/KOSTADINKA_KUNEVA_home.html

3.1. Overview of relevant administrative regulations

Voting rights for citizens abroad has been a highly topical issue in the Greek political agenda ever since the foundation of the modern Greek State. Despite its historical place in public debate, Greek citizens abroad do not possess any means to exercise their voting rights. They are asked to return to their homeland to exercise their voting rights. This right is regarded as *ipso jure* incontestable since residence abroad does not have any implication for voting rights in Greece.

The discussion on the electoral rights of expatriates regards the legal techniques the state could use to facilitate the Greek diaspora's absentee political participation. This question has preoccupied the Greek political scene merely as a matter of constitutional mechanics: in what way could the constitutional provision of the Article 51, para. 4 ("*Matters pertaining to the exercise of the right to vote by persons living outside the Country may be specified by law*") be implemented.

Despite this provision, no statute defining such electoral rights has yet been passed. On the other hand, residence in Greece is not a condition for casting a vote or running as a candidate. The so-called 'permanent residents overseas' can equally vote and run as candidates without any legal obstacles, apart from the fact that they have to travel back to Greece to be able to exercise their rights. The same goes for Greek citizens who accidentally happen to be abroad on the election day, or even for diplomats.

The constitutionally recognised possibility of enacting legislation has not yet been realised despite the fact that the Greek government submitted a draft legislation on voting rights concerning Greek citizens abroad in 2009. The draft law 'Exercise of electoral rights at the general parliamentary elections by Greek voters residing abroad', introduced by the Conservative government on 9 February 2009, was the first ever trying to implement Article 51, para. 4 of the Greek Constitution. It failed, however, since it did not manage to obtain the two-thirds majority required by the Constitution. The Socialists (then in opposition), fearing an influx of emigrants that may have lost a vital bond with the country and who might skew the forthcoming electoral results, withdrew their support of the draft law. For Greek citizens abroad, voting in EP elections is the only case where the Greek legislator has organised a mechanism that allows them to exercise their voting rights from abroad. This is provided for by Law 1427/1984 'Exercise of electoral rights for EP elections for Greek citizens residing on the territory of other States of the European Economic Community'. Thereby, Greeks residing in another EU Member State, as well as Greeks who will be in another EU Member State on the election day have the right to vote. Greek citizens residing in a third country cannot participate in EP elections from abroad. They may return to Greece to participate.

The ambassadors and consular authorities of Greece in the other EU Member States are obliged to inform Greek voters residing in their region by any appropriate means about their right to participate in the Greek EP elections. It is up to these authorities' discretion of how this notification is done. Yet, the Ministry of Interior asks that "the voters must be informed in due time about the exact date of the elections, the conditions required to exercise their right to vote and their supply with the necessary proof of their identity documents on the day of the elections" (2014).

3.2. Voter Registration

When voting, the Greek residents abroad must present the electoral committee in their Member State of residence with their identity card, passport or driving license or the personal health booklet of all insurance funds issued by the competent Greek authorities. In order to exercise the right to vote in their place of residence within the EU, Greek residents abroad should:

- Be registered in an electoral register of a municipality of the Greek State. It should be noted that all Greek citizens at the age of majority are automatically registered as voters.
- Have the right to vote and not be deprived of this right by means of a judicial ruling.
- Make a statement²⁷ to the relevant embassy or consular post (in whose region they intend to exercise their right to vote) that they wish to vote at their place of residence. The deadline for submitting the statements is determined by decision of the Minister of the Interior between two to five months before the election day.
- Reside or be present in an EU Member State on the day of the election. Greek citizens residing in third countries cannot vote in EP elections.

The process is non-automatic, i.e. a fresh registration has to be done for each election. It starts with the voter (or the officer of the diplomatic authority assisting him or her) visiting the website of the Ministry of Interior. Voters are informed on the website of the necessary steps to take in order to submit their application to the relevant diplomatic authority. Through this website, the person can enter him- or herself or the voter concerned in the electoral database, giving his or her name and surname. The person registers the details of voter's address (city, street, number, PO, telephone, e-mail) and selects the city of voting from a predefined list, according to the proximity to the voter's place of residence. For the 2014 EP elections, there were a total of 133 voting cities in the EU Member States. Greek citizens residing in another EU municipality may cast their vote to the closest municipality listed.

This list includes:

- 1 voting city for Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, Portugal, Poland, Romania, Slovakia, Spain.
- 2 voting cities for Austria, Cyprus,
- 3 voting cities for France, Sweden, UK
- 4 voting cities for the Netherlands
- 5 voting cities for Belgium
- 17 voting cities for Italy
- 76 voting cities for Germany
- Slovenia is the only Member State without a voting city.

Three copies of the registration are printed. The first copy of the registration is held by the person concerned and the other two copies shall be accompanied by a photocopy of the police ID or the last page of the passport of the person concerned (or of the passport page in which the holder's details are entered). . The consulate records the submitted applications and

²⁷ On the basis of this statement, they are included by the Ministry of the Interior in special electoral lists. During the 2004 and 2009 and 2014 European elections, the application process was implemented via the Ministry of Foreign Affairs' website.

sends the second copy (accompanied by a photocopy of the passport) to the Department of Computerization and Electronic Processing of Data (PPCS) of the Ministry of Foreign Affairs, while the third copy is kept in the consulate archive. The PPCS carries out all other procedures that have as a result the preparation and printing of the special electoral rolls of the Greek electorate-residents of the EU and their mission to the relevant diplomatic authorities. After finalising the special voter lists, the Ministry of Foreign Affairs uploads the polling stations where the voters may cast their votes on its website.

Premises of the Greek Embassies and Consular Authorities, buildings of other Greek authorities or services, independent churches of the Orthodox Greek Church and buildings or even Greek shops, associations or other Greek organisations are used as polling stations (designated by a decision of the Minister of the Interior). If the above-mentioned venues are not adequate to be used as a polling station, it is possible to use buildings which are not Greek private or public property in the relevant EU Member State. The number of polling stations (designated by decision of the Minister of the Interior) to be set up in the region of each ambassador or consular post depends on the number of citizens who have declared to vote in that region.

The schedule of the Election Day is announced and posted at prominent points of all designated voting facilities at least five days before the date of the vote. It should include the day of the vote, the start and end time of voting, the polling stations and their location, as well as the name of all candidates and the electoral lists. The voting in each polling station is held before an election committee consisting of the representative of a Greek judicial authority, as chairman and three voters, among those included in the special electoral rolls. Representatives of the judicial authority are appointed by the First Department of the Supreme Court. The other members of the electoral committees, consisting of voters registered in the special electoral roll, are appointed by the relevant ambassador or consul, after a public lottery at the embassy or consulate shop. The day and time of the draw must be notified by the ambassadors and consular authorities, with a notice to be posted at the branches of these Representatives of the judicial authority will be appointed as judicial officers, judicial officers and lawyers from Greece. If they are not sufficient to meet the needs of all constituencies, they are exceptionally appointed as judicial representatives from the First Department of the Supreme Court, permanent ambassadors and consular officers and secretaries, as well as other embassy official authorities.

3.3. Turnout

A total of 14,973 voters were registered and voted at the 2014 EP Elections, 38% of which were in Germany. The only condition for the exercise of the right to vote in EP elections by Greek voters in other EU Member States concerns the existence of the above-mentioned polling stations. According to author's interviews with Greek residents in France and Germany, experience until today shows that generally such infrastructure is present.²⁸ Yet, the turnout is limited. 15thousand voters out of an incalculable number of Greeks (counted in hundreds of thousands) residing in other EU Member States is a very small number. The reason for the limited turnout could be that a large number of Greeks in the EU hold a second nationality – the Greek one and the one of their state of residence – so they prefer to vote as

²⁸ Personal Interview with Greek national resident in France, May 2018; Personal Interview with Greek national resident in Germany, May 2018.

nationals of their State of residence. Others manage to travel back to Greece since EP elections in Greece are often held together with municipal elections.

4. Conclusion

Political debates or media reports on non-resident voters, as well as their potential impact on electoral outcomes only became topical after the adoption of Law 3838/2010 which accorded such right to non-EU nationals, and particularly after the decision of the Greek State Council 460/2013. Yet, these debates did not concern EU citizens, but only third-country nationals. The State Council in its Decision ruled that the right to vote for municipal elections is unconstitutional since it violates a considerable number of provisions of the Greek Constitution: the “democratic form of government, enshrined in Article 1, paragraph 2 (popular sovereignty), the principle of “national solidarity, Article 25, paragraph 4, the principle of the Representation of the Nation (Article 51 paragraph 2) as well as “the real expression of the popular sovereignty (Article 52 (real-expression of popular unforced sovereignty. According to the Court, participation of non-EU foreigners also overrides local administration because it is contrary to Article 102 paragraph 2 of the Greek Constitution (Election of Local Government Authorities).

It is a common assumption today in Greece that recognition of such rights to foreign nationals requires a constitutional amendment and this issue is raised in ongoing discussions before the next Constitutional Reform in the country. It is a surprise yet, that despite the above discourse of the State Council, the right of EU nationals to vote at the municipal elections has never been seriously questioned, something a fact which is rather paradoxical: It would have been far more coherent for the Greek Court, once it rules that the participation of third-country nationals violates 9 articles of the hard normative core of the Greek Constitution – articles which could not be revised by the way – to consider that, at least the vote of EU citizens at the Greek municipal elections would have pose a kind of problem. Should Greek judges consider that "the exercise of the right to vote in local elections is a mandatory feature for the realization of the principle of popular sovereignty which means the exercise of his constituency and the people as composed only of those individuals who possess the Greek nationality have the right to vote” then it would have been logical to expect that EU nationals would have been equally excluded. Yet, this did not happen.

Non-citizen EU residents exercise their right to vote by following more or less the same procedure Greeks abroad have to follow to register in the special electoral lists. Both categories of voters are regarded as lawful, yet considered special. The ability for their political participation is founded in their special residence status: Greeks abroad for the EP elections, EU citizens in Greece for the municipal and EP ones.

It should be noted, that the general norm for Greek elections is that residence does not matter for the right to vote:²⁹ people vote at the municipality where they are registered to vote

²⁹ I.e. there is a general default procedure for voter registration and vote casting which does not take into account the fact of residence

regardless of their residence, with a few exceptions. At the same time, Greek citizens abroad do not possess any facility for overseas voting in national and local elections.³⁰

In terms of numbers, the turnout of both categories is rather disappointing since the number is low. The obstacle is not so much the lack of legislation, or of political will since both exist. The major difficulty here is the adoption of an easier to communicate system of preventing the voters as to when they are supposed to register at the special electoral lists. From interviews conducted with officers in certain consulates of EU Member States in Athens, such as the one of the Netherlands, France and Germany, the feedback was that there are not major obstacles to the political participation in municipal elections faced by citizens of these states. The biggest problem is that the voters are not automatically registered; a situation which in practice renders the communication by the municipalities of important deadlines to voters – and particularly the deadline for the registration – crucial.

The general legal basis for the right to vote is registration at the municipal rolls (*Demotologia*) of any Greek municipality. Foreign citizens by definition are not registered at the municipal rolls. This might create trouble.

Since 1997, all eligible voters are automatically registered in the electoral lists of their municipality when they reach voting age. Before 1997, registration had not been automatic, but voters were expected to register by providing themselves with the so-called “electoral booklet” and following its instructions. Since then, however, the right to vote for every citizen derives automatically from the certificate of citizenship. Since citizenship and voting age are the two exclusive conditions for the right to vote, registration at the municipal rolls, proof of Greek citizenship, and reaching the age of 18, automatically lead to the endowment of this right. In virtue of Law 2623/1998, the electoral lists were redrafted according to the *Demotologia* of all Greek municipalities. The same law established common electoral lists for men and women and abolished the electoral booklet. Ever since, every voter possesses a Special Electoral Number, unique and permanent for each and every citizen. The same procedure is followed for Greek residents overseas.

A potential reform could be the re-introduction of rules that applied in 1997, according to which EU citizens residing in Greece had to be registered only once in the special electoral lists of the municipality of their residence, so they did not have to renew their registration before every election. This measure could function as an incentive for the participation of EU citizens in the municipal election and could also trigger the possibility of municipal campaigning focusing at this target group of voters, which has never taken place until now in Greek municipal politics.³¹

Finally, it should be noted that on 12 July 2018, the Greek Parliament adopted the “Clesthene” Law that envisages major reforms of local governance. Article 256 of the Law foresees the creation of a Scientific Committee under the Secretary General of the Ministry of Interior to assess “the vote of non residents Greek voters”. The legislation stipulates that “The task of the Committee would be to register and evaluate the current situation regarding the number of the Greek voters residing abroad, the institutional, financial, technical and political parameters related to the facilitation of their vote, the eventually different legal and political perspectives appropriate for different categories of voters, as well as the elaboration of a report

³⁰ The only other exception is made for Greek citizens who do not reside at the municipality where they are registered but elsewhere in the country. These voters are called ‘heterodimotes’, a very frequently used term in Greek, literally meaning those ‘registered in another municipality’.

³¹ It must be strongly emphasised here that if someone is not registered at the municipality rolls, then he/she does not possess Greek nationality.

to the Minister of Interior regarding the means of implementation of the relevant constitutional provision." The committee is bound to deliver its findings by the end of 2018.

