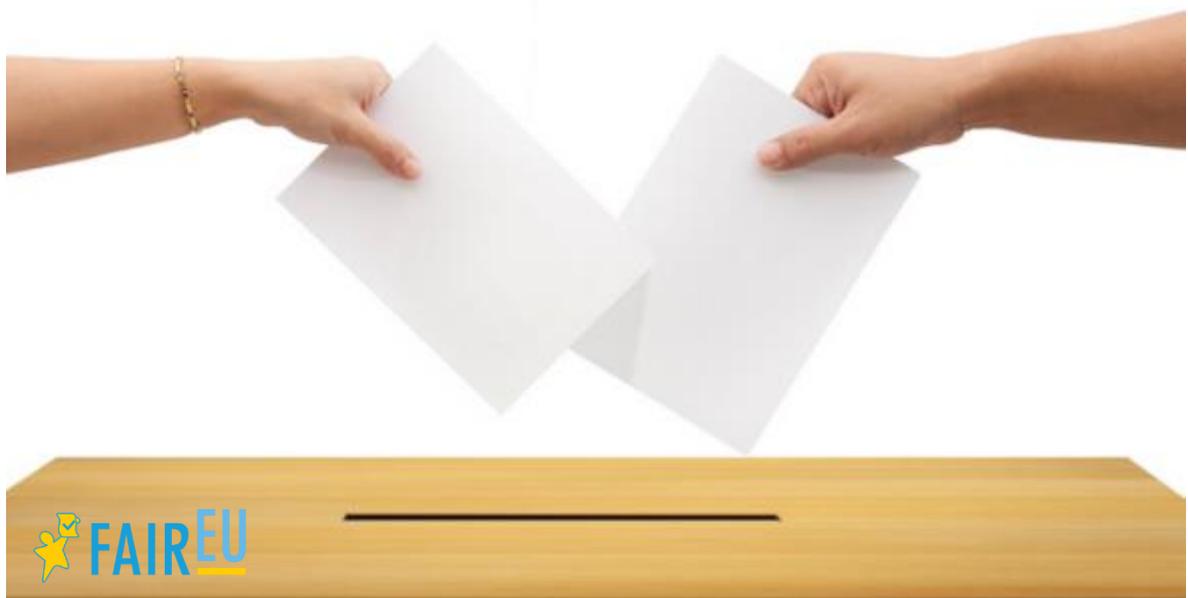


OBSTACLES TO FREEDOM OF MOVEMENT AND POLITICAL PARTICIPATION OF MOBILE EU CITIZENS



Report from the Focus Group in Luxembourg

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Report from the FAIR EU Focus Group in Luxembourg (EN)

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Introduction

FAIR EU (Fostering Awareness Inclusion and Recognition) aims to foster the successful inclusion of EU mobile citizens in their host EU country's civic and political life through the provision of a holistic approach to tackling obstacles they face when exercising their rights. Within this framework a focus group was organised in Luxembourg City, Luxembourg, on 17 January 2019.

The aim of the focus group was to identify and analyse the links between obstacles to free movement and the exercise of political rights of EU mobile citizens in Luxembourg.

The following people participated in the focus group:

- Participants:** Madeleine Kayser (Ville de Luxembourg), Zsuzsa Varkonyi-Karsai (Conseil national des étrangers), Sylvain Besch (CEFIS asbl), Marc Angel (LSAP), Christian Welter (Piraten), Starsky Flor (Piraten), Eric Weirich (Déi Lenk), Jean Krier (Déi Lenk), Vanessa Schmit (SYVICOL), Sergio Ferreira (ASTI), Serge-Arno Klumper (ASTI), Roland Houtsch (ADR), Felix Reding (ADR), Charles Margue (Déi Greng)
- Excused:** Ministère des Affaires étrangères et européennes, CLAE asbl, Université du Luxembourg, OGBL, OLAI, Ligue des droits de l'homme, LISER (Luxembourg Institute of Socio-Economic Research), CSV, DP
- Moderator:** Patrick Goergen (Cross Borders)

Background on Luxembourg

From the outset, participants discussed the latest figures on the participation of non-Luxembourgers in local elections of 8 October 2017. For these elections, 34.638 foreign nationals have registered on the electoral lists, which represents an actual enrolment rate of 22.8% compared to 151.938 foreigners aged 18 and over residing in Luxembourg for at least 5 years.¹ The enrolment rate almost doubled between 1999 and 2017: 12% in 1999 (the year in which only European Union citizens could vote for the first time), 15% in 2005 (the year in which all foreigners could vote), 17% in 2011 and 23% in 2017. The electoral weight (ratio between the foreign electorate and the total electorate) was 12%. It is noted in this context that the Luxembourg electorate also evolves by the effect of the law allowing dual nationality, which has seen many foreigners take Luxembourg nationality alongside their original nationality (and therefore a transfer of aliens from the list “foreigner” to the “national”) list.

The enrolment rate clearly increases with the number of years spent in the Grand Duchy (3% for those who have been resident for 5-9 years, 30% for those who have resided for more than 30 years) and according to the age (5% for 18-24 years old, 33% for 65-74 years old). It is also stronger among EU citizens (23%) than among non-EU nationals (20%). At the nationality level, Austrian and Dutch nationals (32% each), Germans and Belgians (28% each) and Italians (27%) are the most important. For non-EU citizens, it is the citizens of Montenegro (27%), Bosnia (23%) and Cape Verde (22%). Of the 227.164 adult persons of foreign nationality, 75.226 could not register on the electoral lists because they did not meet the 5 year period of residence requirement.

When the foreigners concerned are asked why they do not wish to register on the electoral lists, they answer “I do not care”(19%),“I did not know”(10%) and “I do not know the system”², which demonstrates the importance of raising awareness, explaining and informing at all times. The Grand Duchy of Luxembourg is a society with fairly high overall satisfaction rates, a quality of life appreciated by both Luxembourgers and foreigners, with a booming economy and a generous social protection system. The Government issued of the 2018 parliamentary elections will consider ways to improve the participation of foreign citizens in local elections and increase awareness of European citizens to participate in European elections.³

For the European elections, the situation is a little different. It was in 1994 that EU nationals were able to participate in the European elections for the first time (with a residence requirement in Luxembourg for 5 years, then reduced to 2 years in 2009 and abolished for the 2014 elections). The enrolment rate has changed positively (7.4% in 1994, 8.8% in 1999, 8.9% in 2004, 11.5% in 2009 and 12.2% in 2014). By electoral weight, it is the same trend (3.1% in 1994, 8.2% in 2014). Leaders here are Italians and Germans with enrolment rates higher than 18%. Non-EU nationals cannot vote.

The Luxembourg Constitution does not currently allow for the vote of foreigners in parliamentary elections. In a referendum of 7 June 2015, the people of Luxembourg voted, with a majority of 78% (despite the accession of the parties making up the Government), against the idea of introducing the right for non-Luxembourgers, to register, optionally, on the electoral lists in order to take part in the legislative elections, under the double condition of a 10-year residence in Luxembourg and prior participation in European and municipal elections.

The electoral system (Luxembourg specificity) is based on the obligation to vote in elections, from the age of 18 to 75 years.

¹ RED n° 22, Les élections communales d’octobre 2017, Cefis, Luxembourg, octobre 2018.

² RED n° 19, La participation politique des étrangers au Luxembourg, Cefis, Luxembourg, avril 2015.

³ Coalition Agreement 2018-2023, page 6 and 215, downloadable at <https://gouvernement.lu/en/publications/accord-coalition/2018-2023.html>

Discussion

Obstacles to the exercise of free movement rights of EU mobile citizens in Luxembourg

All participants are aware of the difficulties that European citizens face when exercising their right of free movement and come to settle in the Grand Duchy of Luxembourg. They meet non-Luxembourgers in the course of their professional or political activities, and are unanimous in not denying the existence of such difficulties, moreover regularly confirmed by the reports of the Luxembourg Ombudsman.

Some European citizens would suffer discrimination in their access to various fundamental rights, in regard to employment, accommodation or social aid. An example of such an obstacle would be the interpretation and application of the notion of "sufficient resources" in connection with the registration of European citizens in the communes. Although a guide has been distributed to the municipal administrations, difficulties regularly appear to correctly apply this criterion.⁴

Asked about the possible causes of these obstacles, the participants in the meeting pointed out that certain municipal officials had inadequate knowledge and/or training, but especially the growing complexity of the texts of European law, changing rapidly and requiring more and more experts able to orient themselves in matters harmonized or coordinated at European level, for example in social security. Several participants, not contradicted by other participants, however, believe that, even if such obstacles do exist, the link with the participation in the elections would be marginal. This would not be the determining factor.

Obstacles to the exercise of political rights of EU mobile citizens in Luxembourg

Then, during the discussion, the voter registration rate, being 12% for the 2014 European elections and 23% for the 2017 municipal elections, was discussed. The group came to the conclusion that this would mainly be a problem of mentality and host culture (called in German, "Willkommenskultur").

One participant described that he accompanied a Portuguese citizen to a Luxembourg administration. She was in the process of divorce from her Luxembourg spouse and had to manage her pension rights. The official told her "But you know, it's very complicated. It takes a lot of time. Portugal will take a long time to answer us. Are you sure you want to do it?" While the positive approach would have been to say "Of course, we will do everything to help you."

Such a mentality and "customer" service approach would leave foreigners the feeling of not being welcome in Luxembourg. The habit of civil servants would be to have a negative reaction instead of a positive open-mindedness. Even though it is a question of personality as well (others feeling even more motivated to get involved), most people would come out of such a negative experience, accelerating a trajectory that could result in the return of citizens to their country of origin.

The feeling of being unwelcome would result in the absence of a feeling of attachment to the country, a necessary condition for wanting to participate in the political system of the country by registering on the electoral lists. Even if, on the whole, the Luxembourg public service is judged better than that of their country of origin, European citizens remain very sensitive to the reception that is made to them at the local level.

Another factor would be the divergence, in Luxembourg, between the extremely open economic sphere (on economic, social, press and linguistic levels) and a much more closed and unrestrained

⁴ Note that the European Union Agency for Fundamental Rights (FRA), which advises EU institutions and Member States on respect and protection of fundamental rights, noted in an 2018 report that a Portuguese citizen employed in Luxembourg had her residence permit withdrawn by the authorities on the grounds that she was unable to prove that she had sufficient resources, despite the fact that she was working. Her employers had actually reported only 12 hours of work per week. Having appealed this decision, the Supreme Administrative Court of Luxembourg has held that in certain circumstances, a person who works only 12 hours a week can be qualified as a worker and that other elements, such as volunteering in an association, may also have an impact on the recognition of European worker status.

political sphere. European citizens settling in Luxembourg have trouble penetrating the political environment, often still governed conservatively (the use of Luxembourg in public debates, in the Chamber of Deputies and in municipal councils remains) and, as a result, remain more attached to their country of origin than to develop an adherence to and an interest in Luxembourgish politics.

In such a context, the "living together" and mutual respect represent a challenge in itself, already upstream. Several participants noted the real risk of developing parallel worlds. One participant cited the example of his town of origin, where the mayor complained that 20% of school age children are not enrolled in the municipal primary school, but elsewhere (without knowing where exactly). He cites again the case of the international school in Luxembourg-City, without any contact with the surrounding Luxembourg public high schools, without common extracurricular activities and carrying out his own school transport. Many administrative facilities granted to the communities of foreigners would favour the isolation, the between-ones, and would make it difficult to live together. The risk of division would be real, between communities, but also between social strata (one participant noted the use of the terms "expats" and immigrants to distinguish between migrants, recalling with concern the differences between "blue-collar" and "white-collar", intellectuals and workers). To fight against these parallel worlds, several participants advocate for the reinforcement of the constraints and coercivity (e.g. making the reception-integration contract compulsory).

Yet another factor would be the remaining 5-year residence requirement for participation in municipal elections (derogation when transposing the EU directive), while the residence requirement was abolished for the European elections. It is noted by a political party representative that currently, there seems to be political courage to remove the residence requirement in communal elections.

As an additional factor, the participants pointed out the habit of municipal officials (despite the efforts made in this respect by several municipalities) not to propose to non-Luxembourg citizens, when they come to declare themselves to the commune, and not to encourage them to register at the same time to the electoral lists.

It is noted, however, that municipalities do not remain inactive with regard to information and awareness-raising activities. 93% of the municipalities had organised, in view of the 2017 elections, actions aimed at encouraging foreigners to register on the electoral lists. These included the use of their website, advertising, outreach by public servants, participation in national registration days, schedules of registration desks in the evenings or a Saturday, and a personalized letter to foreign residents of the municipality.⁵

Many foreigners do stay in the Grand Duchy of Luxembourg only for short periods ("a lot of back and forth"). However, interest in politics in the host country only develops during a single integration path. During the first years, therefore, foreigners only exceptionally make an interest, being in any case excluded from the vote in the municipal elections because of the length of residence requirement. The electoral system does not promote greater political integration.

Abstention, which also affects Luxembourg citizens, can still be explained by frustration with the political system, despite the awareness campaigns conducted to encourage non-Luxembourg citizens to register to voter lists (campaigns sometimes viewed with a bad eye by Luxembourgers of origin).

Several participants indicated that the enrolment rate varies, of course, depending on the professional background (higher qualification leading to stronger participation).

Other barriers to political participation by registering on the electoral roll, according to group members, are a relatively low visibility of foreign candidates in the elections, foreigners - and in particular those outside the EU - being little present in the candidatures and almost absent among the elected representatives (270 foreign candidates in the 2017 local elections, i.e. 7.6% (total 3.575), composed of 145 women and 125 men, the majority of Portuguese, German, Italian, Belgian and

⁵ RED n° 22, Les élections communales d'octobre 2017, Cefis, Luxembourg, octobre 2018, page 36.

French, against 236 in 2011). It would be important to have balanced lists. One participant pointed out that the 27 members of the Municipal Council of the City of Luxembourg (with a presence of 70% non-Luxembourgers in the municipal territory) are all Luxembourg nationals. In addition, there is an under-representation of foreigners in communal committees, and a majority of communal political programs that do not take into account the local presence of a foreign population.

Examples of good practices to be adopted in order to facilitate and encourage political participation of EU mobile citizens in Luxembourg

The participants noticed a guide that CEFIS (Centre for Intercultural and Social Studies and Training)⁶ published for municipalities and multipliers. This guide contains recommendations and good practices for raising awareness for the registration on communal electoral lists.

It proposes a strategy and concrete actions. Regarding the strategy, it would be to know the characteristics of the municipality (getting to know the foreign communities, the groups by targeting nationalities, young and elderly people, and the most used languages), to develop a partnership (by giving a strategic role to communal integration committees with the support of municipal council, by developing an awareness-raising project, by making funds available and by working with neighbouring municipalities, embassies and consulates), to strengthen the local network and within communities (e.g. by developing training modules on communal competencies and the electoral system for potential voters) and to adapt the communication (showing that there is a link between the act of voting and the daily reality for people, by providing for targeted mailings, and using new technologies and information networks).

Concrete actions range around awareness raising at all times, facilitation of administrative procedures for registration by foreseeing tailored schedules and targeted personalized letters, and electronic registration) and the involvement of all partners in a project.

Conclusions

The focus group stated that some EU citizens experience discrimination when it comes to the access of various fundamental rights (e.g. employment, accommodation or social aid). A possible reason for this is the inadequate knowledge and/or training of civil servants and the growing complexity of the texts of European law.

The voter rate for the municipal elections of 2017 was low. A factor for this, is that EU citizens feel unwelcome, which results in feeling no attachment to their host country and therefore do not participate in the elections. Another factor that contributes to the low voter rate is the 5-year residence requirement for participating in the municipal elections in Luxembourg.

On the positive side, it is mentioned that municipalities are active in encouraging foreigners to register on the electoral lists. This was done by using their website, a personalised letter, opening of the registration desk in the evenings or a Saturday and outreach by public servants.

As a good example, the guide of CEFIS was named. This guide contains recommendations and good practices for raising awareness for the registration on communal electoral lists.

⁶www.cefis.lu