

All Voters are Equal but...

Two Case Studies on the Voting Rights of Hungarians Living Abroad

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Abstract: Equal suffrage is a basic principle of democratic elections which is included in most constitutions and international human rights documents. It applies to the design of the boundaries of the political community, electoral system and electoral procedure. However, there are special cases where the effectiveness of this principle is questionable. This paper deals with two different aspects of the Hungarian regulation concerning the voting rights of Hungarian citizens living abroad. The paper gives an overview of the regulation and presents the recent constitutional disputes and relevant case law of Hungarian and European fundamental rights protection mechanisms. Finally, it opens the debate by posing some key questions on the future of the Hungarian situation and more generally, on the level of protection of voting rights before the national and international institutions.

Keywords: equal suffrage, European Court of Human Rights, Hungarian Constitutional Court, right to vote.

Generally, it is the constitutional power that decides on the boundaries of the political community and the scope of the voters who can participate in the elections of the most important democratically elected constitutional organs. The constitution usually determines these boundaries based on a combination of three criteria: age, nationality or other status, and residence.¹

The state can decide whether it gives voting rights to those who are residing outside the territory of the country or who are just abroad on the elections day. If they choose the inclusive solution, there is a large scale of regulation on the electoral system (how their votes can be transformed into mandates) and on electoral procedures (how they can cast their vote).

There are quite few international human rights standards in this field because international documents and protection mechanisms usually give states a wide margin of appreciation concerning their electoral system and procedures. However, one of the most important electoral principles, namely, equal suffrage, is also applicable in this domain and can influence the range of possible solutions.

This paper aims to present the current situation in Hungary concerning the right to vote of Hungarian citizens abroad, noting that the system was entirely amended before the 2014 parliamentary elections.

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1 Ludvig Beckman, Citizenship and Voting Rights: Should Resident Aliens Vote? (2006) 2 Citizenship Studies 154-162.