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ACCESS TO ELECTORAL RIGHTS *ROMANIA*

Costica Dumbrava

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EUDO Citizenship Observatory

***Access to Electoral Rights
Romania***

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Access to Electoral Rights

Romania

Costica Dumbrava

1. Introduction

After the fall of the communist regime in 1989, Romania emerged as a constitutional democracy that fully recognised the electoral rights of its citizens. In this context, electoral issues have often triggered political debates. Such debates have been particularly frequent in recent years, as the current president, Traian Basescu,¹ has constantly pushed for electoral reform. In the autumn of 2007 the president organised a referendum asking citizens whether they agreed with adopting a new system of representation. The referendum was declared invalid due to low turnout.² In 2009 the president called for another referendum asking citizens whether they agreed with two proposals regarding the resizing and restructuring of the Parliament.³ Although the referendum confirmed the support of citizens for reform,⁴ no consensus has yet been reached at the level of political elites. Other proposals of electoral reform have aimed at introducing alternative voting methods. At present, in Romanian elections, votes can be cast only in person at designated polling stations. In 2010 the Constitutional Court urged the Parliament to facilitate the political participation of Romanian citizens with domicile abroad by way of introducing electronic voting for legislative and parliamentary elections. A legislative project that provided for the possibility of voting by correspondence was adopted by the Senate in 2011. The project has been blocked in the lower Chamber due to the lack of political agreement. Whilst the president has backed the project, the government has withheld support invoking concerns about personal data protection and the risk of electoral fraud.

One particularly contentious electoral issue in recent years has been the voting rights of non-resident citizens. Generally, we can identify two categories of non-resident Romanian citizens. The first category concerns citizens who have left the country in the last two decades, mainly in search of better economic opportunities. Most of these emigrants have retained their formal residential status in the country. The second category of non-resident citizens concerns persons who have acquired or re-acquired Romanian citizenship without taking up residence

¹ Traian Basescu was first elected president of Romania in 2004. He was re-elected in 2009. For a brief political chronology of Romania between 1987-2012, see Thorpe, 2012.

² One year later, the electoral system was eventually changed and a mixed electoral formula was adopted.

³ The Romanian Parliament is composed of two Chambers, the Senate and the Chamber of Deputies, and has currently 176 Senators and 412 Deputies. The proposals were about adopting a unicameral Parliament and limiting the number of MPs to a maximum of 300.

⁴ Of those who voted (50.95 per cent of the total electorate) 77.78 per cent supported the first proposal and 88.84 per cent sustained the second proposal.

in the country. According to the 1991 citizenship law, former citizens who, before 22 December 1989, ‘have lost their Romanian citizenship for different reasons’⁵ and former citizens who ‘were stripped of Romanian citizenship against their will or for reasons beyond their control’ can reacquire Romanian citizenship through a simplified procedure. Although the specific rules concerning the re-acquisition of citizenship have been amended several times (Iordachi 2010), Romania continues to grant citizenship to former citizens and descendants without requiring them to establish residence in the country (Dumbrava, 2013).⁶ Despite a consensus among Romanian elites about the ‘historical duty’ of the Romanian state towards Romanian ‘brothers’ that inhabit the territories of former Romanian provinces (mainly Moldova and Northern Bucovina), the issue of non-residential citizenship has stirred controversies in the electoral context. For example, in 2009, Traian Basescu won presidential elections by a tiny fraction of votes after he had received strong support from Romanian citizens living abroad.⁷ In 2012, Romanian citizens were called to vote in a referendum on the impeachment of the president. Although the Constitutional Court has invalidated the referendum due to low turnout, the event has generated heated debates about electoral rules and procedures (e.g. electoral rolls, electoral quorum, etc.) and about the voting rights of non-resident citizens (Dumbrava 2012). Several politicians have opined that the voting rights of non-resident citizens should be restricted.⁸ In May 2013, the Chamber of Deputies approved an amendment to the Law on Referendum that lowered the minimum threshold for the validity of the referenda from fifty to thirty per cent of the registered voters.⁹ Several members of political parties in opposition have threatened to take the bill to the Constitutional Court.

2. Eligibility: Who has electoral rights under national law?

The Romanian Constitution recognises the electoral rights of all citizens. Apart from Romanian citizens, citizens of other EU countries who reside in Romania (second country nationals) also enjoy electoral rights in local and European elections. Foreign residents who are not EU citizens (third country nationals) do not have electoral rights in Romania. Despite experiencing a wave of immigration in the early stages of its independence from the Soviet Union, Romania does not provide for any political or electoral rights to non-EU immigrants.¹⁰

The right to exercise certain electoral rights depends on several factors. There are four main personal circumstances that can lead to restrictions of electoral rights: residence, age,

⁵ This provision was intended to offer the possibility to re-acquire Romanian citizenship by former citizens who had been deprived of their citizenship status during the communist regime.

⁶ The western press has frequently sounded the alarm bell about the huge number of Moldovans who obtain Romanian citizenship in order to emigrate into the EU (Barbulescu, 2012). However, a recent study by the Open Society Institute estimates that the total number of applications for the re-acquisition of Romanian citizenship has not been greater than 230,000 over the last twenty years (Iordachi, 2012: 361).

⁷ Traian Basescu won the second round of presidential elections in 2009 by a margin of 71,000 votes. He received around 10,000 from citizens who resided in the Republic of Moldova (Dumbrava, 2009).

⁸ For example, EMP Catalin Ivan has recently declared that the voting rights of Romanian citizens who live abroad should be restricted. He argued that non-resident citizens have little knowledge about the situation of the country and that many of them also ‘refuse to teach the Romanian language to their children’ (Albu, 2009). Crin Antonescu – who was interim president of Romania during the suspension of Traian Basescu in 2012 – also argued that the voting rights of non-resident citizens should be linked with subjection to taxation in the country (Darius, 2011).

⁹ ‘Legea Referendumului cu prag de 30% a fost adoptată de Camera Deputaţilor’, Revista 22, 29 May 2013. <<http://www.revista22.ro/legea-referendumului-cu-prag-de-30-a-fost-adoptata-de-camera-deputatilor-26723.html>>.

¹⁰ According to a 2011 MIPLEX report, Romania scores the lowest of all 31 countries under scrutiny on the issue of political participation of immigrants (Huddleston et al., 2011).

legal capacity, and professional occupation. The right to exercise electoral rights also depends on the type of election (local, legislative, presidential, European, or referenda), and on the type of electoral rights (voting rights or candidacy rights). In the remainder of this section, I discuss restrictions of electoral rights, starting from a preliminary distinction between residents and non-residents.

2.1 Citizen residents

Resident citizens enjoy the widest collection of electoral rights. However, the electoral rights of resident citizens are restricted in several circumstances. The personal circumstances that affect the exercise of the electoral rights of resident citizens are: age, legal capacity, and professional occupation.

2.1.1. Age

According to Article 36 (1) of the Romanian Constitution, ‘every citizen having turned eighteen up to or on the day of election shall have the right to vote.’ The age threshold for voting rights applies in all types of elections. Concerning candidacy rights, however, the law provides for different age thresholds. In order to run for a mandate in a municipal council or in the Chamber of Deputies, citizen residents must be at least 23 years old. The age threshold increases to 33 for the election to the Senate and to 35 for presidential elections.

2.1.2. Mental disabilities

According to Article 36 (2) of the Constitution, ‘mentally disabled or alienated persons, laid under interdiction... cannot vote.’ Because voting rights are a prerequisite for candidacy rights, persons who lose their voting rights also lose their candidacy rights. All electoral laws¹¹ contain provisions concerning the full exclusion from electoral participation of mentally disabled or alienated persons. The legislator does not distinguish between different types or degrees of mental incapacity.¹² The power to disenfranchise citizens on the grounds of mental incapacity rests entirely with the courts.

2.1.3. Persons convicted of criminal offences

According to Article 36 (2) of the Constitution, ‘persons who have been disenfranchised by a final decision of the court cannot vote.’ In Romania, the withdrawal or suspension of electoral rights may constitute part of a criminal punishment. Persons convicted of certain criminal offences may have their electoral rights suspended while they execute the criminal sentence and/or for a period of time after the execution of the sentence.

Article 64-66 of the Criminal Code provides for the suspension of electoral rights as a supplementary punishment for persons who have been sentenced to at least two years of prison. The suspension of electoral rights in the case of supplementary punishment applies

¹¹ In Romania each type of election is regulated by a specific electoral law. Law 3/2000 regulates national and local referenda, Law 67/2004 regulates local elections, Law 35/2008 regulates legislative elections, Law 370/2004 regulates presidential elections, and Law 33/2007 regulates the election for the European Parliament.

¹² In other countries the law distinguishes between persons with mental health problems and persons with intellectual disabilities. For a comparative study of the electoral rights of persons with mental disabilities, see ‘The right to political participation of persons with mental health problems and persons with intellectual disabilities’, European Union Agency for Fundamental Rights, (2010).

after the execution of the sentence. The decision to impose supplementary punishments is taken by courts, unless the law explicitly prescribes it. Article 71 of the Criminal Code provides for the suspension of electoral rights as an accessory punishment. The difference in this case is that the loss of electoral rights commences immediately after the proclamation of the sentence.

2.1.4 Other Conditions

Apart from restrictions related to age, mental capacity and criminal conviction, the law also restricts some candidacy rights to citizens who exercise certain professional occupations. According to Article 37 (1) of the Constitution, ‘eligibility is granted to all citizens having the right to vote ... unless they are forbidden to join a political party.’ In line with Article 40 (3) of the Constitution, persons belonging to certain professional categories cannot exercise their rights of political association (the right to join a political party). The restricted professional categories are: judges of the Constitutional Court, advocates of the people, magistrates, active members of the Armed Forces, policemen, and other categories of civil servants, as established by organic law.

The laws regulating local elections and elections to the European Parliament also contain provisions about the representation of both genders on the lists of candidates proposed by political parties or organisations of national minorities. There are no established quotas or proportions. The laws merely state that the lists of candidates should contain candidates of both genders. Romanian law does not restrict the electoral rights of dual citizens. Constitutional provisions that banned dual citizens from taking certain political offices have been removed in the last revision of the Constitution in 2003.

2.2 Citizens abroad

2.2.1. Residence in the country

The residential status of persons constitutes an important factor that determines the exercise of electoral rights in certain types of elections. In electoral matters, Romanian law distinguishes between domicile (*domiciliu*), residence (*reședință*) and temporal location (*locuință temporară*). The domicile is the place where a person has his or her principal lodging. The residence indicates the place where a person has his or her secondary lodging. A person can register as resident at an address in Romania if he or she has lived there for at least fifteen consecutive days. Both the domicile and the residence are officially registered in identity documents. Electoral laws also refer to situations when people find themselves, on the day of elections, outside their place of residence or domicile. Romanian citizens who live outside the country have the possibility to register, before Romanian authorities, as citizens with domicile abroad.¹³

In order to vote in local elections in a municipality, a Romanian citizen or EU citizen with permanent residence in Romania should have his or her domicile in that municipality or

¹³ The distinction between residents and non-residents is not always straightforward. The law takes into account the formal address of citizens – as registered in the identity documents. This formal address does not always coincide with the actual address of persons. The phenomenon of sustained emigration in the last two decades has aggravated this discrepancy. Calls for better administrative procedures and more accurate statistical information on this issue have been made in the heat of the debate concerning the validity of the 2012 referendum for the impeachment of the president (Dumbrava, 2012).

he or she should have resided in the municipality for at least three months before the day of local elections. In order to compete for a mandate in a local council, a person should have his or her domicile in that municipality. Persons who do not have domicile in a municipality cannot run for elections in municipal elections in that municipality even if they have been long term residents there. In legislative elections, citizens vote in the municipality where they have domicile. They may, however, vote in another municipality if they are registered on the supplementary electoral roll. In presidential elections, citizens can vote from outside the municipality of their domicile or residence only at certain polling stations specially designated for this purpose. Only citizens who have domicile in Romania enjoy candidacy rights.¹⁴ In local referenda, citizens can vote only in the municipality where they have domicile. In national referenda, citizens can cast votes from outside the municipality of residence or domicile or from abroad.

2.2.2. Temporary absentees

Except for local elections and local referenda, non-resident citizens enjoy voting rights in all types of elections. Electoral laws provide for the possibility of casting votes from abroad in situations when citizens are abroad on the day of elections. In legislative elections, citizens who are temporarily abroad can vote after they are registered on the supplementary electoral roll. In presidential elections, citizens can cast votes from abroad if they submit a declaration stating that they have not already voted and that they will not vote again in the same election.

2.2.3. Permanent residents abroad

Citizens who live permanently abroad can declare their domicile abroad before Romanian authorities. In such cases, citizens are removed from the electoral roll of the municipality of their previous domicile in the country and placed on a special electoral roll reserved for citizens with domicile abroad. The mention of domicile abroad is registered in citizens' passports.

Citizens with domicile abroad can vote in legislative elections, presidential elections, and national referenda. The law does not provide for the lapse of electoral rights after a certain period of residence abroad. Citizens with domicile abroad have no voting rights in local elections and local referenda. They also cannot run as candidates in any type of elections. In order to enjoy candidacy rights in Romanian elections a person must have his or her domicile in the country.

3. Electoral rights of EU citizens

According to EU law,¹⁵ EU citizens who reside in a Member State in which they do not have the status of citizenship enjoy electoral rights in local and European elections. After accession to the European Union, Romania has recognised the rights of resident EU citizens to vote and stand as candidates in local and European elections. Romania has not extended the electoral

¹⁴ There was one notable case of exemption. In 2010 Ilie Ilascu – a militant anti-separatist Moldovan citizen – was swiftly granted Romanian citizenship and was elected *in absentia* for a mandate of Senator in the Romanian Parliament. At the time of elections, Ilie Ilascu was serving a prison sentence in Transnistria. Ilascu's election violated legal provisions that prohibited from political office dual citizens and non-resident citizens (Iordachi, 2004: 250-3).

¹⁵ Article 22 of the EU Treaty confers electoral rights for the election of the European Parliament. Arrangements for the exercise of these rights are laid down in Council Directive 94/80/EC and Council Directive 93/109/EC.

rights of second country nationals to cover national elections or referenda, which is not required under EU law.

3.1 Local elections

Romanian law distinguishes between two levels of local government. At the basic level, local government units are comprised of villages, towns, municipalities, and the districts of the municipality of Bucharest. At the intermediate level, the unit of local government is the county. Local or municipal elections take place simultaneously at both levels. In local elections, voters elect the members of local councils (basic level), the members of county councils (intermediate level), mayors (the heads of the local councils), and the presidents of the county councils.

In compliance with EU law, Romanian law provides that EU citizens with domicile or residence in Romania have the right to vote and stand as a candidate in local elections under the same conditions as citizens.¹⁶ The Council Directive 94/80/EC allows for two exceptions to this rule. First, Member States may restrict the right of EU residents to stand as candidates for the position of the elected head of the executive body of a municipality. Romania applies this restriction. Second country nationals cannot stand as candidates for the offices of mayor and president of the county council.¹⁷ According to the second exception, Member States may impose additional residential requirements for the exercise of voting rights by second country nationals in municipalities where they form more than twenty per cent of the eligible voting population. Romania does not apply this restriction.

Article 7 (1) of the Council Directive 94/80/EC stipulates that EU residents can exercise their right to vote if they express their wish to do so. But the Directive also provides that Member States may automatically register EU residents on the electoral roll. Romania uses a system of automatic registration of second country nationals. EU citizens who are registered with the Romanian Immigration Office¹⁸ are automatically registered on the special electoral roll. Second country nationals who are not registered with the Romania Immigration Office can request to be registered on the special electoral roll in a municipality if they present documents proving their identity and residence in that municipality.

EU law allows for the deprivation of electoral rights of second country nationals who have been deprived of electoral rights in the country of citizenship (home country). In cases where national laws establish incompatibilities with exercising candidacy rights, these incompatibilities may also apply to second country nationals. According to Romanian law, second country nationals who wish to run as a candidate in local elections must submit a formal declaration stating that they have not been deprived of electoral rights in their home country, and that they do not hold offices there that are equivalent to offices in Romania deemed to be incompatible with holding executive public office.

¹⁶ As indicated in the Annex to the Council Directive 94/80/EC³, second country nationals in Romania enjoy electoral rights at both levels of local government.

¹⁷ According to the Constitution, only Romanian citizens can exercise delegated public powers.

¹⁸ EU citizens are obliged to declare their presence in Romania within fifteen days from the date of entry into the country. If they stay in the country for more than three months, the Romanian Office for Immigration issues them a registration certificate. After 5 years of continuous and legal residence in the country EU citizens are issued a permanent residence card.

3.2 EP elections for EU citizens residing in the country

Romanian citizens and second country nationals have the right to vote and to stand as candidates in elections for the European Parliament (European elections).¹⁹ The Council Directive 93/109/EC dealing with the electoral rights of EU citizens in European elections allows countries to impose additional residential requirements for European elections. Romania does not impose such additional restrictions. In order to vote, however, second country nationals must submit a written request to the mayor in the municipality of their residence or domicile at least 60 days before the day of elections. The mayor should answer the request in a maximum of ten days. Registered second country nationals remain enrolled on the special electoral roll until the roll is cancelled or until they are removed from the electoral roll because they no longer qualify for the exercise of electoral rights.

As in the case of Romanian citizens, second country nationals vote in the municipality where they have been enrolled. They can vote in another municipality if the president of the electoral office where they wish to vote receives the (telephonic) confirmation that the person has already been enrolled for voting in the municipality of residence. They can also vote from outside Romania after it is confirmed that they were already enrolled on the special electoral rolls in the (Romanian) municipality of residence.

Second country nationals who wish to stand as candidates in European elections must submit a written declaration stating that they do not stand as a candidate in another EU Member State. They also have to provide a certificate from the electoral authority of their home country attesting that they have not been deprived of the right to stand as candidate in their home country. Article 6 (1) of Council Directive 93/109/EC requires²⁰ states of residence to deprive second country nationals of electoral rights if they have been deprived of electoral rights in their home country. In order to register their candidacy, Romanian citizens and second country nationals must gather signatures of support from 100,000 voters. As in the case of local elections, in European elections incompatibilities concerning holding political office apply to Romanian citizens and to second country nationals alike. In line with the provisions of the Directive, Romanian law forbids multiple voting and multiple candidacies.²¹

3.3 EP elections for national citizens abroad

Romanian citizens enjoy the right to vote in European elections organised by Romania, irrespective of their place of residence or domicile. Romanian citizens who have domicile in Romania are automatically registered on the electoral rolls. They are removed from the electoral roll when they register to vote for European elections in another Member State. Romanian citizens who are abroad on the day of elections can exercise the right to vote in European elections only if they are not on the list of citizens who have registered to vote in another member state. These lists are compiled and updated by the Permanent Electoral Authority. The law does not distinguish between temporary and permanent residence abroad. As in all other elections, non-residents do not have candidacy rights.

¹⁹ The first European election in Romania was held in November 2007. Currently, Romania is represented in the European Parliament by 33 MEPs. Romanian MEPs are elected on the basis of proportional representation in a single electoral constituency.

²⁰ By contrast, Council Directive 94/80/EC3 only provides that second country nationals who have been deprived of electoral rights in their home country *may* be deprived of electoral rights (in local elections) in the country of residence.

²¹ The Permanent Electoral Authority keeps electoral documents for six months after the European elections and investigates complaints about multiple voting and multiple candidacies. The Authority is also in charge of exchanging information with similar institutions in the other Member States.

4. Exercising electoral rights

4.1 National elections

In Romania, national elections are organised in order to elect the President (presidential elections) and the members of the two chambers of the Parliament – the Senate and the Chamber of Deputies (legislative elections).²² National referenda can also be held in order to consult citizens on specific issues.²³ Only Romanian citizens can vote and stand as candidates in national elections and referenda.

4.1.1. Voter registration

In national elections and national referenda, eligible citizens are automatically registered on the permanent electoral roll in the municipality of their domicile. In cases where citizens have been omitted from the permanent electoral roll, but can prove with their identity documents that they have domicile in the municipality, citizens can exercise the right to vote in that municipality. In such cases, citizens are registered at polling stations on the supplementary electoral roll.

In legislative elections, citizens who are resident in a municipality must register their intention to vote at least three days before the day of elections if they want to vote in their municipality of residence. In national referenda, citizens who reside in a municipality can vote if they register their intention to vote at least three days before elections.

4.1.2. Casting the vote

The only method of voting in Romanian elections is in person at polling stations. As a general rule, citizens cast their vote in the municipality in which they are automatically registered.

In legislative elections, citizens can also cast votes outside the municipality in which they are automatically registered. In such cases, citizens are registered at polling stations on the supplementary electoral roll. Resident citizens vote by showing a special voter card, which they can obtain in advance or at polling stations on the day of elections. Romanian citizens with domicile abroad and Romanian citizens who can prove their official residence abroad can exercise the right to vote from abroad. They can cast votes in person at the polling stations located in diplomatic or consular offices in the country of their residence or domicile. Citizens with domicile or residence abroad can also vote at any polling station in the country, in which case they are registered on the supplementary electoral roll. Starting with the national elections in 2012, citizens with domicile abroad are registered automatically in the permanent electoral roll. Citizens with official residence abroad are registered at polling stations on the supplementary electoral roll. Citizens who are temporarily abroad and citizens with domicile abroad can vote by showing their passport. Citizens with official residence abroad must show a Romanian identity document and a document proving residence in the country where the vote is cast.

²² The two Chambers of the Romanian Parliament are elected based on a similar procedure. What differs is the representation quota that shapes the electoral districts – 70,000 inhabitants for a Deputy and 160,000 inhabitants for a Senator (Gherghina and Jigla, 2012: 448).

²³ There are three types of issues that can make the object of national referenda: 1) the revision of the Constitution, 2) the impeachment of the President, and 3) issues of national interest.

In presidential elections, citizens can vote outside the municipality of domicile or residence but only at specifically designated polling stations. In order to vote citizens must submit a declaration stating that they have not already voted and that they will not vote again for the same elections. Citizens who wish to vote from abroad must submit similar declarations. The law does not distinguish between citizens with domicile or residence abroad and citizens who are temporarily abroad.

In national referenda, citizens can vote from outside their municipality of residence or domicile. In such cases, they are registered at polling stations on the supplementary electoral roll. Citizens can also vote from abroad without the obligation to register their intention to vote. They are registered, at the polling station, on the supplementary electoral roll.

4.1.3. Running as a candidate

In legislative elections, candidates can either be proposed by political parties or national minority organisations, or stand as independent candidates. In order to register their candidacy, independent candidates must gather signatures of support from at least four per cent of the total number of voters registered on the permanent electoral roll in the electoral district where they intend to run as a candidate. The number of signatures must be at least 2,000 if the candidate runs for the Chambers of Deputies and at least 4,000 if he or she runs for the Senate. The same threshold applies for independent candidates who wish to run for a mandate in the special electoral districts reserved to citizens with domicile abroad. Besides identity documents and the abovementioned list of signatures, candidates must submit a declaration of assets and a declaration of interests. Citizens born before 1 January 1979 must also submit a declaration on their past involvement with the communist security police. Besides, the law requires that all candidates pay a deposit fee,²⁴ which is paid back after fourteen working days following the day of (valid) elections only to parties and independent candidates who have obtained at least two per cent of all valid votes counted at national level.

In presidential elections, would-be candidates must gather signatures of support from 200,000 voters. They must submit declarations of assets and declarations of interests as well as declarations concerning their involvement with the communist security police. The law does not provide for a deposit fee.

4.1.4. Assimilated or special representation of citizens residing abroad

The default electoral system in Romania combines voting in single-member districts and proportionality (Gherghina and Jigla 2012). It also contains mechanisms for the special representation of national minorities.²⁵ Non-resident citizens form a special electoral constituency that is divided into four geographical districts.²⁶ Each geographical district elects

²⁴ The deposit fee is equivalent to five times the monthly minimum wages.

²⁵ The organisations of recognised national minorities that have not obtained a mandate of deputy in any district but have obtained at least ten per cent of the overall average number of votes necessary for the election of a deputy are constitutionally entitled to a mandate of deputy.

²⁶ District 1 includes the following countries: Austria, Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Switzerland, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Norway, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, the United Kingdom, Andorra, Island, Liechtenstein, Monaco, San Marino and Vatican. District 2 includes the following countries: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Croatia, Former Yugoslav Republic of Macedonia, Georgia, Kazakhstan, Montenegro, Moldova, Russia, Serbia, Turkey, Ukraine, Bangladesh, Bhutan, Brunei, Cambodia, Korea, North Korea, Philippines, India, Indonesia, Japan, Kyrgyzstan, Laos, Malaysia, Maldives, Mongolia, Myanmar, Nepal, the Republic of China, Singapore, Sri Lanka, Tajikistan, Thailand, East

one deputy. Two mandates of senators are distributed among the four geographical districts – one senator for District 1 and 2, another senator for District 3 and 4. MPs elected in these districts represent the interests of Romanian citizens living abroad. Apart from that, their formal mandates are similar to those of the other Romanian MPs.

4.2 Local elections

In Romania, local or municipal elections are organised in order to elect mayors and the members of local councils at the basic level of local government, and the presidents of the county councils and the members of the county councils at the intermediate level of local government.²⁷ Local referenda can be held at both levels of local government in order to consult citizens on issues of local interest. Only Romanian and second country nationals can vote in local elections. Only resident Romanian citizens can run as candidates for the office of mayor and that of the president of a county council.

4.2.1. Voter registration

In local elections, Romanian citizens with voting rights are automatically registered on the permanent electoral roll in the municipality of their domicile. Second country nationals are automatically registered on a special electoral roll. Citizens who have resided in a municipality for at least three months before the day of election can vote in the municipality of residence if they request to be registered. The mayor receives requests for registration and he or she has the duty to register residents on the supplementary electoral roll. In local referenda, citizens can exercise the right to vote only in the municipality of domicile. Residents can vote only if they register the intention to vote at least three days before the day of referendum. Second country nationals do not have voting rights in local referenda.

4.2.2. Casting the vote

In local elections, Romanian citizens and second country nationals can vote at polling stations in the municipality in which they are registered. If they are not registered on the electoral rolls, but they can prove that they have domicile or at least three months residence in a municipality, they can still cast votes in the municipality. In such cases, voters are registered on the supplementary electoral roll on the day of election.

Timor, Turkmenistan, Uzbekistan and Vietnam. District 3 includes the following countries: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Columbia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, the United States of America, Surinam, Trinidad and Tobago, Uruguay, Venezuela, Australia, New Zealand, Fiji, Papua New Guinea, Solomon Islands, Vanuatu, Marshall Islands, Micronesia (Federated States of), Kiribati, Nauru, Palau, Samoa, Tonga, Tuvalu. District 4 includes the following countries: Afghanistan, South Africa, Algeria, Angola, Saudi Arabia, Bahrain, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Chad, Ngazidja, Congo, Ivory Coast, Djibouti, Egypt, United Emirates of Arabia, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Equatorial Guinea, Guinea-Bissau, Jordan, Iraq, Iran, Israel, Kenya, Kuwait, Lesotho, Lebanon, Liberia, Libya, Madagascar, Malawi, Mali, Maroco, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Oman, Pakistan, Qatar, Central African Republic, Democratic Republic of Congo, Rwanda, São Tomé and Príncipe, Senegal, Seychelles, Sierra Leone, Syria, Somalia, Palestine, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia, Zimbabwe, and Yemen.

²⁷ There are a total of 2.995 councils in Romania, namely 41 county councils, and 2.954 local councils (80 municipal councils, 182 town councils, 6 district councils of the municipality of Bucharest, and 2.686 commune councils).

4.2.3. Running as candidate

In order to stand as candidates in local elections in a municipality Romanian citizens and second country nationals should have domicile in that municipality. Candidates can be proposed by political parties and organisations of national minorities or they can run as independents.

There are no specific declarations or deposit fees required in order to register candidacies. Independent candidates who run for a mandate for a local or a county council must gather signatures of support from at least one per cent of the total number of voters, registered on the permanent and supplementary electoral rolls, in the electoral district where they wish to hold office. The number of signatures must be at least fifty in communes, and minimally between 100 and 1000 in other municipalities according to their size. Independent candidates who run for mayoral office must gather signatures of support from at least two percent of the total number of voters registered on the permanent and supplementary electoral rolls of the relevant electoral district. The number of signatures must be at least 200 in communes, and minimally between 300 and 5,000 in other municipalities according to their size. Independent candidates who run for the office of the president of a county council must gather signatures of support from at least two percent of the total number of voters registered on the permanent and supplementary electoral rolls in the relevant electoral district. The number of signatures must be at least 3,000.

A person cannot run as a candidate at the same time for the office of mayor and the office of president of a county council. He or she may simultaneously for mayoral office and for the office of the members of the local or county council. He or she can simultaneously run for the office of the president of the county council and be a member of the local or county council.

5. Conclusion

Romania recognises the electoral rights of Romanian citizens and of EU citizens residing in the country. The exercise of electoral rights depends on certain personal circumstances (residence, age, legal capacity, professional status) and on the type of elections (local, national, European, referenda). Resident EU citizens or second country nationals enjoy full voting rights in local and European elections. They have only partial candidacy rights in local elections because they are forbidden to stand as candidates for mayoral office or for the office of the president of a county council.

One contentious issue in recent electoral politics in Romania has been the status and voting rights of non-resident citizens. These citizens enjoy only partial electoral rights. According to Romanian law, the right to stand as a candidate in elections can be exercised only by residents. Non-resident citizens cannot cast votes in local elections or in local referenda.²⁸ They can vote in national elections (legislative and presidential) and in national referenda. In presidential elections and national referenda, non-resident citizens enjoy full voting rights. The law on legislative elections makes a distinction between citizens with official domicile or residence abroad and citizens who are only temporarily abroad. The reason for this distinction is that, in legislative elections, Romanian citizens living abroad

²⁸ If non-resident citizens have maintained formal domicile in Romania, they can, nevertheless, vote in local elections but only in the municipality of their domicile. Romanian citizens with formal domicile abroad do not have voting rights in local elections.

constitute a separate electoral district that elects its own MPs (two senators and four deputies). The issue of the ‘diaspora vote’ has triggered heated political discussions despite the relatively low political participation of non-resident citizens. As the experience of the latest referendum for the impeachment of the president has shows, non-participation can also have important consequences if non-voters are taken into account when calculating the electoral quorum. After the Constitutional Court invalidated the referendum on grounds of low turnout, the supporters of impeachment raised questions about the inclusion of non-resident citizens in the quorum and even about the justification for the voting rights of non-residents. Passionate debates about the voting rights of non-resident citizens contrast sharply with a general silence with regard to the electoral rights of non-EU immigrants. Third country nationals do not enjoy electoral rights in Romania.

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