

## **EXERCISE THE HUMAN RIGHT TO VOTE IN THE MODERN DEMOCRATIC COUNTRIES**

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*The article investigates the problem of realization of the active voting right by immigrants, gives the analysis of its legislative fixation in various democratic countries, suggests the ways of solving the problem in Russia by making changes in the law.*

In nowadays many countries still have many restrictions on the right to vote, especially those who have immigrated to the country for some reason, either dual nationality can't be elected in the democratic country. This is one current problem in democratic States, which hold free elections and comply with their international obligations to guarantee fundamental rights.

In Russia if we consider the situation of foreign citizens to participate in elections, we can also state that they are not entitled to vote and to be elected, as explicitly stated in Article 12 of Federal Law of 25.07.2002 N 115-FZ (ed. of 26.07.2019) [7]. It follows from this that in Russia there is a clear distinction between the rights granted to citizens of the Russian Federation between foreign citizens and even citizens of the Russian Federation who have dual citizenship. In this regard,

there is inequality in the possibility of voting in the country and the principles of democratic free elections cannot be fully implemented in the legal system and be respected.

In many European countries the right of foreign citizens to participate in elections and the right to elect and be elected are enshrined in legislation. For example, Election Act of Norway in paragraph 2-2 establishes that foreign citizens may participate in local government elections in that case if they “have been registered at the Population Registry as resident in Norway for the last three years prior to Election Day, or are nationals of another Nordic country and were registered at the Population Registry no later than 30 June in the year of the election” [3]. In section 2 of Election Finland Act it’s said that a foreign citizen from a European Union state is also entitled to vote who has reached the age of 18 no later than on the election day “and whose municipality of residence referred to in the Municipality of Residence Act (201/1994) is in Finland or who works for the European Union or another international organisation in Finland or is a family member of such a person” [4].

In Sweden foreign citizens in 1976 got the right to vote those who were registered for 3 years obtained the right to vote in municipal and provincial elections like it’s said in SOU 1975:15. The stated goal of this change was to increase the political influence, interest and self-esteem of foreign citizens. And in 1998 the 3<sup>rd</sup> year waiting period for foreign citizens from EU countries, Iceland and Norway was removed. Bevelander Pieter notes at this way immigrants from the Nordic countries like citizens of Sweden have equal rights in voting but in comparing with them “Europeans and North American immigrants are equal or less likely to vote, whereas immigrants from Asia, Africa and Latin America are more likely to vote” [9].

In Germany Article 28(1) of the Constitution allows persons who possess the citizenship of a European Community may elect and be elected at the local level in counties and communes [2]. In the UK for local elections, supralocal elections and elections to devolved Parliaments and Assemblies elections EU citizens have the same rights as Commonwealth citizens. The Representation of the People Act 2000 also had a system of electoral registration with electoral registers for parliamentary elections and for local elections [6].

In the USA a number of Maryland municipalities have permanent residency rights for foreign citizens to vote in local elections. It was due to a lawsuit in 1875 when the Supreme Court of the USA in a case *Minor vs. Happersett* noted that “citizenship has not in all cases been made a condition precedent to the enjoyment of the right of suffrage. in Missouri, persons of foreign birth, who have declared their intention to become citizens of the United States, may under certain circumstances vote” [8].

In South Korea according to Article 15 (2) of the Public official election Act permanent residents or stateless persons who have a residence permit may exercise their right to vote at the local level. To exercise the right to vote, foreigners must

have the status of permanent residents for at least three years and reach the age of 19 years [5].

Thus, all EU states were compelled to change their legislation in order to comply with the Directive of 1994 94/80/CE EU regarding voting and eligibility rights for EU residents in local and district elections. At this reason a citizen of the European Union has a passive and active suffrage in the formation of municipal authorities. This is also confirmed by the directive itself, which states that citizens can exercise their electoral rights in primary local government units [1].

Granting voting rights to immigrants is controversial, given that voting is traditionally seen as a feature of citizenship. It is quite difficult to determine the optimal scope of electoral rights of foreign citizens and to establish fair conditions for the acquisition of electoral rights. A foreigner may acquire voting rights only if he or she meets the criteria (age, legal capacity, place of residence) established in the country of residence. EU State policies provide immigrants with the opportunity to integrate into the electoral system on the basis of equality, while at the same time giving them a new sense of belonging to a new country. They are therefore given the opportunity to participate in elections at the local level.

Using a comparative method, we can analyse the situation in the field of granting voting rights to foreign citizens in Russia and other countries. As a result, it turned out that in European countries, in accordance with conventions and European directives, foreign citizens represented by citizens of the European Union have equal rights to elect and be elected, but this applies only to elections at the local level. In Russia and many non-European countries and Asian countries foreign citizens are limited in voting and can get this right only in the case of permanent residence, the term of which is sometimes blurred or not established directly, as in Russia. As a rule, the granting of voting rights to foreign citizens in Russia is connected with the presence of a permanent place of residence and a bilateral international treaty. And in European countries it is connected with the presence of citizenship of the European Union and the residency requirement in some cases. But the fact that foreign citizens are not allowed to vote at the regional and federal levels, but only at the local level limits them in equality with other citizens. This may be primarily due to the theory that if foreigners are granted voting rights, they may vote for their own interests and not for the benefit of all persons residing in the territory.

It follows that there are two conditions of voting rights for foreign nationals: 1) sedentary residence, where the foreign national must reside in the country concerned for a certain continuous period of time to vote (e.g. South Korea). 2) The country where the foreign national is located is a member of the European Union or Commonwealth (United Kingdom, all European Nordic countries). And there is a certain type of elections where they can participate – mainly elections of local importance, in almost all countries.

The main difference in the situation of dual citizenship citizens between Russia and European countries is that in Russia it is forbidden to be elected to the state bodies of these citizens, when, as in Europe, the practice is that if a country is a member of the EU, a citizen of another country may be elected to state bodies in another country where he has a second citizenship. Moreover, Russia has not ratified many international legal acts on the electoral rights of foreign citizens, which is why national legislation contains provisions that prevent foreign citizens from electing and being elected in general. But in general, it can be said that both in the Russian Federation and in the world, there are restrictions established by the laws on the exercise of suffrage rights by foreign citizens.

Immigrant citizens vote is an important consideration for government strategies to engage with immigrants and the native population. In today's world, the problem of ensuring the suffrage rights of foreign citizens, citizens with dual citizenship is still relevant, as not all democratic states implement them and provide the state with the full measure of their rights, sometimes the restrictions are considered to be too severe, which, on the contrary, deprives them of the opportunity to vote in the country. Therefore, it is necessary to find optimal and compromise solutions. Speaking of Russia, where the term of permanent residence of foreign citizens is not specified, it is necessary to amend the legislation, and the term of 3 or 5 years of permanent residence of a foreign citizen from the date of obtaining a residence permit in the country in order to participate in local elections can be considered as such. In addition, in many countries, including Russia, the content of the electoral rights of foreign citizens is not disclosed and the procedure for their participation in elections at any level is not clearly presented. Therefore, the legislation on the content of rights and procedures for participation in elections should also be amended accordingly.

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