

The following is a transcript of the website at 3 October 2010. When reading it, please bear in mind that it was written for the Internet, and because Internet surfers tend to read in a non-linear fashion, and often read only part of a given website, this transcript contains more repetition than would be acceptable in a standard, linear text. In some cases this transcript may not correspond exactly with the website text, which moreover is being constantly revised and updated.

Welcome to Votes for Expat Brits. This site aims to draw attention to the scandalous denial of voting rights to British expats who have lived outside the UK for more than fifteen years.

We believe that the UK should enable and encourage *all* its expat citizens – not just some of them – to participate fully in the political process in their home country, by giving them unrestricted voting rights in national elections, as in most other advanced democracies (and indeed in many so-called third-world countries).

We hope you enjoy your visit to our site, and we hope too that you will decide to express your support in our feedback section. Wherever you are in the world, especially if you are one of the 5.5 million Britons living abroad, welcome!

Voting rights for expats - what's wrong with the present system

Unlike the United States, Switzerland and most other developed countries in the world, among which most of the Member States of the EU including France, Germany, Italy, Portugal and, Spain, **the United Kingdom strips its citizens of the right to vote in Parliamentary elections for the mere fact of having resided abroad for more than 15 years.**

Exceptions exist for the military, civil servants and British Council employees. But all other British expats, including English teachers at schools other than the British Council, lose the right to vote after 15 years abroad. Apart from expats, the only other British citizens who do not enjoy the right to vote are children, individuals who suffer from mental illness, and criminals.

What does the law say?

Back in 1985, the Representation of the People Act extended the right to vote in national elections to British citizens living overseas who had previously been resident in the UK within the previous five years. This period was extended to twenty years in 1989, but was reduced in 2000 to fifteen years with effect from 1 April 2002. Specifically, the offending piece of legislation are Section 141 of the Political Parties, Elections and Referendums Act 2000, which amended Sections 1 (3) (c), 1 (4) (a), 3 (3) (c) and 3 (4) (a) of the Representation of the People Act 1985, as amended by the Representation of the People Act 2000.

Political Parties, Elections and Referendums Act 2000

<http://www.legislation.gov.uk/ukpga/2000/41/section/141>

141 Reduction of qualifying period for overseas electors.

In each of the following provisions of the Representation of the People Act 1985 (as amended by the Representation of the People Act 2000), namely—

(a) section 1(3) and (4) (conditions to be satisfied by British citizen in order to qualify as overseas elector in relation to parliamentary election), and

(b) section 3(3) and (4) (conditions to be satisfied by peer in order to qualify as overseas elector in relation to European Parliamentary election), for “20 years” there shall be substituted “ 15 years ”.

Representation of the People Act 1985

<http://www.legislation.gov.uk/ukpga/1985/50/section/1>

Extension of parliamentary franchise.

(1) A person is entitled to vote as an elector at a parliamentary election in any constituency if—

(a) he qualifies as an overseas elector in respect of that constituency on the date on which he makes a declaration under and in accordance with section 2 of this Act (“the relevant date”);

(b) on that date and on the date of the poll—

(i) he is not subject to any legal incapacity to vote, and

(ii) he is a British citizen; and

(c) on the date of the poll he is registered in a register of parliamentary electors for that constituency.

(2) For the purposes of this Act and the principal Act a person qualifies as an overseas elector in respect of a constituency on the relevant date if—

(a) on that date he is not resident in the United Kingdom, and

(b) he satisfies one of the following sets of conditions.

(3) The first set of conditions is that—

(a) he was included in a register of parliamentary electors in respect of an address at a place that is situated within the constituency concerned,

(b) that entry in the register was made on the basis that he was resident, or to be treated for the purposes of registration as resident, at that address,

(c) that entry in the register was in force at any time falling within the period of [15 years] ending immediately before the relevant date, and

(d) subsequent to that entry ceasing to have effect no entry was made in any register of parliamentary electors on the basis that he was resident, or to be treated for the purposes of registration as resident, at any other address.

(4) The second set of conditions is that—

(a) he was last resident in the United Kingdom within the period of [15 years] ending immediately before the relevant date,

(b) he was by reason only of his age incapable of being included in any register of parliamentary electors in force on the last day on which he was resident in the United Kingdom, and

(c) the address at which he was resident on that day was at a place that is situated within the constituency concerned and a parent or guardian of his was included, in respect of that address, in a register of parliamentary electors or a register of local government electors in force on that day.

(5) The reference in subsection (1) above to a person being subject to a legal incapacity to vote on the relevant date does not include a reference to his being under the age of 18 on that date; and the reference in subsection (4) above to a register of local government electors includes a reference to a register of electors prepared for the purposes of local elections (within the meaning of the Electoral Law Act (Northern Ireland) 1962).

This legislation is arbitrary, discriminatory, and serves no useful purpose. At various times in the past the government has arbitrarily fixed the cut-off point for British expat citizens' voting rights at zero, five, twenty and fifteen years. This is a "think-of-a-number" approach, rather than a reasoned and responsible approach towards an important area of legislation.

Also, since the offending legislation only affects people aged 33 or over, there's an unpleasant age discrimination aspect to it as well.

How is it arbitrary?

The 15-year period was chosen arbitrarily to replace the earlier periods of 20 and earlier 5 years. None of these numbers makes any sense at all. Expats do not disengage from their home country. In this age of the Internet and satellite TV and radio, expats can easily follow what is happening at home, whether they live in Birmingham, Berlin, Brisbane or Buenos Aires.

The current 15-year rule fails to provide an objective, justified basis on which to determine who should have the right to vote. Why should Britons, who have lived in, say, Geneva, for 16 years lose the right to vote while those who have lived there for 14 years still enjoy that right?

How is it discriminatory?

Members of the armed forces, Crown servants, and employees of the British Council are exempted from the 15-year rule. So a Briton employed by the European Commission loses the right to vote after living in Brussels for more than 15 years, whereas a Briton working on the other side of the road for the UK Embassy to the European Union will not.

The treaties of the European Union grant to all European citizens the right to live and work in another state of the EU. The fundamental rights of EU citizens to move freely within the EU was never intended to be subject to restrictions or penalties, as the Court of Justice of the EU has consistently pointed out. If a country places restrictions or penalties on its own citizens who wish to avail themselves of these basic rights, it is guilty of discriminating against its own citizens to the benefit of

citizens of other EU Member States, whose free movement to other countries is not penalized.

Many Britons live abroad because they were posted there by their UK employers, or because they represent the UK in international organizations or NGOs, such as the European institutions in Brussels or agencies of the United Nations. These are people who fly the flag for Britain abroad. Why should they be penalized by losing the right to vote?

About British expats

The Institute for Public Policy Research (IPPR) estimates the size of the British community abroad at 5.6 million. The largest British expat populations are in Australia (more than a million), Spain, the United States, Canada and France. Communities of more than 1,000 Britons exist in more than 100 countries around the world. For more information on the IPPR's work on the British abroad, please go to <http://www.ippr.org/publicationsandreports/publication.asp?id=760>

Most British emigrants tend to move abroad for work-related reasons – 55 per cent of all British emigrants in 2008. Approximately a quarter are students, and around 20% are pensioners. In fact, British pensioners living abroad represent nearly 10 per cent of all British pensioners.

Most British expats living abroad are unofficial ambassadors, promoting British values to their host countries. International civil servants, English language teachers, foreign correspondents of British newspapers, businessmen and businesswomen, English governesses: all project an image of their Britishness around them. All face the voting ban after they have lived abroad for more than 15 years.

Mixed-nationality marriages are often a factor in emigration decisions. People who marry someone of a different nationality usually have to choose which of the two countries will become their future home. The decision of a Spanish-British couple to live in the UK (as in the case of Nick Clegg MP, the Deputy Prime Minister, and his Spanish wife) has no undesirable consequences in terms of expat voting rights, because the Spanish spouse has a lifelong right to vote in Spanish national elections. But a decision made by a similar couple to live in Spain would, under the present legislation, lead to the denial of voting rights to the British spouse after 15 years.

In the IPPR's view, "Brits abroad are not a burden or an embarrassment: they are in many ways the best of Britain and we should be proud and supportive of them."

Why can't they vote where they live?

In general, voting rights are attached to nationality, rather than residence. So countries don't on the whole grant the right to vote to foreign residents.

There is an exception to this practice within the EU, where the Maastricht treaty allows European citizens living in a member state which is not their country of origin to vote where they live in municipal and European Parliament elections.

Additionally, the UK allows resident Irish and Commonwealth citizens to vote, while excluding actual British citizens who have lived abroad for more than 15 years.

Ireland, Sweden, Denmark, Norway and the Netherlands also allow resident foreign nationals to vote, under certain conditions.

But in pretty much the whole of the rest of the world, the voting booths in national elections remain firmly closed to expats from other countries – a situation which is, frankly, highly unlikely to change.

Voting by expats in the national elections of their host country would be very difficult to achieve, since most countries have followed a different route – that of allowing, and indeed encouraging, their own citizens to vote while living abroad.

It wouldn't be very easy in practice, either. Expats often do not have the language skills necessary to follow what is going on in the political life of their host country. And those who are expats for professional reasons may be moved on to another country before they can even begin to get to grips with host-country politics.

OK, an expat who is able to engage with the political life of his or her host country *could* apply to become a national of that country – which would not necessarily be granted. And in many cases, including Spain, which has a very large British expat community, that would mean giving up one's British nationality. Few, if any, of us would be prepared to do that.

The fact remains that expats' long-term concerns lie firmly with their country of origin, much more than with the country where they happen to live. And with the wealth of modern communication channels now available worldwide, including satellite radio and TV and the Internet, expats can follow what's going on at home just as easily from Brisbane or Buenos Aires as they could if they still lived in Battersea or Bangor.

"No taxation without representation!"

How often do we hear that cry from expat Brits who have been unfairly deprived of the right to vote?

But the situation of disenfranchised British expats isn't the same as in the America of the 1750s and 1760s.

In general, voting rights are attached to nationality, while liability to income tax is based on residence. Countries don't on the whole grant the right to vote to foreign residents, although exceptionally, within the EU, the Maastricht treaty allows European citizens living in a member state which is not their country of origin to vote where they live in municipal and European Parliament elections.

On the other hand, a given country's tax laws invariably stipulate that residents, whatever their nationality, are liable to pay income tax on their worldwide income *in their country of residence*. And of course most countries allow their own citizens to vote in national elections, wherever they live, but don't allow foreign residents to vote, despite the fact that they pay tax there.

So British expats are stuck in a situation where, after fifteen years abroad, they pay their taxes, but they can't vote in British elections, and they can't vote in host country elections either.

Other countries do it, why don't we?

Good question! Why don't we? Just as, over the years, the UK has gradually widened the definition of who is allowed to vote, by lowering the minimum voting age from 25 to 21 to 18, and giving the vote to non-landowners and women, so most advanced democracies have done likewise.

But most advanced democracies have also recognized their own expat populations by giving them an unrestricted right to vote in national elections. France's expats gained the right to vote after World War II. America gave its diaspora the right to vote in 1985. Spanish and Portuguese expats gained their right to participate in the political affairs of their home country when they emerged from dictatorship. Italian expats gained theirs in 2000. The UK's current clumsy, arbitrary arrangements originally date from 1985, and were fumbled and fiddled with, arbitrarily and for no good reason, in 1989, 2000 and 2002.

It is high time the government put an end to the fiddling and fumbling, and brought its electoral legislation up to the standard enjoyed by the world's leading democracies, as has been recommended time and time again by international bodies such as the European Union and the Council of Europe.

France

France's 2.2 million expats elect the 153-member *Assemblée des Français de l'Étranger* (AFE) (Assembly of the French living abroad), as well as 11 members of the *Assemblée Nationale* (the lower house) and 12 senators (upper house). There is a simple Internet-based system for voter registration, described here http://www.diplomatie.gouv.fr/fr/les-francais-etranger_1296/vos-droits-demarches_1395/elections_2490/exercice-du-droit-vote_43196.html (in French, naturally!)

The AFE, whose President is always the Foreign Minister *ex officio*, has announced that it will run an Internet-based polling experiment in December 2011.

In 2012, all French expats, regardless of the time they have lived abroad, will have full voting rights in the country's most important elections – for the Presidency in April/May and later for the new parliament.

For the election of MPs to represent the French living abroad in the *Assemblée Nationale*, France has divided the world up into 11 parliamentary constituencies. The UK forms part of the French parliamentary constituency of Northern Europe.

America

Voting rights extend to United States citizens overseas even though they may no longer own property or have other ties to their last state of residence, and even if their intent to return to that state may be uncertain.

A United States citizen's "legal state of residence" for voting purposes is the state where he or she last resided immediately prior to departure from the United States. For those who have never resided in the U.S., seventeen states to date, allow eligible U.S. citizens to register where a *parent* would be eligible to vote.

All U.S. citizens aged 18 years or older may register to vote by absentee ballot for U.S. elections. Overseas registrations are accepted by most state officials up to 30-45 days prior to a General Election.

Generally, U.S. citizens who are or will be residing outside the United States during an election period are eligible to vote by absentee ballot in any election for Federal Office. This includes primary, run-off, and special elections that occur throughout the year, as well as the general election in November. Some states allow overseas voters to vote in elections for state and local offices, and for state and local referenda.

Non-partisan information about registration, the voting process, candidates, their voting records, and their positions on issues is easily available via the Internet: <http://www.fvap.gov/reference/index.html>

Spain

Article 68 of the Spanish Constitution provides that the law shall recognize, and the State shall facilitate, the exercise of the right to vote of Spaniards abroad. Spanish citizens resident abroad register as voters at their local Spanish Consulate, and may vote at Consulates in the last three days of the official electoral campaign period, or by post.

In addition to voting in elections for members of the Congreso de los Diputados (lower house) and the Senate, Spanish citizens living abroad elect 43 representatives to the Consejo General de la Ciudadanía Española en el Exterior (CGCDE, General Council of Spanish Citizenship Abroad) through representative bodies established under Spanish law at local level, the Consejos de Residentes Españoles (CRE, Spanish Residents' Councils).

Portugal

According to the Constitution of the Republic of Portugal, the single-chamber Assembly of the Republic "is the representative assembly of all Portuguese citizens." Therefore the Portuguese living abroad have the same right to vote in elections for the Assembly as citizens living in the home country.

Portuguese voters residing outside Portugal are grouped into two electoral constituencies - Europe and the rest of the world - each one of which elects two Assembly members.

Expat voter registration takes place mainly at Portuguese consulates. If there is no consulate in a particular country, then registration is normally carried out at the Embassy or another designated registration centre. There are around 200 registration centres abroad, some of which cover more than one country.

In addition, Portuguese citizens living abroad are represented on the Conselho das Comunidades Portuguesas (CCP, Council of Portuguese Communities), the advisory body to Government policies on emigration and Portuguese communities abroad. The CCP is composed of 73 members, 63 of whom are elected by universal, direct and secret ballot of the voters listed in the electoral rolls of the consular posts, and the remaining 10 members are appointed.

Italy

Italian citizens living abroad enjoy representation in both chambers of the parliament -- twelve seats in the House of Representatives and six in the Senate. In addition, Italian citizens living abroad elect 65 representatives to the Consiglio Generale degli

Italiani all'Estero (General Council of Italians living abroad, website in English: <http://www.cgie.it/en/inizio.asp>). The other 29 members are appointed by the Government.

What the government should do

- Change the law so that no time or other limitation is placed on expat voting rights. The infamous Section 141 should be immediately repealed [see * on next page], but more needs to be done.
- Make it easier for expats to register to vote.
- Improve arrangements for absentee voting, giving voters enough time to cast their votes.
- Consider setting up specific constituencies for Britons abroad, like France, Italy and Portugal have, and/or specific assemblies for expats, as France, Italy, Portugal, Spain and Switzerland have.

* This is how the replacement legislation could look:

Abolition of qualifying period for overseas electors.

Each of the following provisions of the Representation of the People Act 1985 (as amended by the Representation of the People Act 2000), namely—

(a) section 1(3) (c) and section 1 (4) (a) (conditions to be satisfied by British citizen in order to qualify as overseas elector in relation to parliamentary election), and

(b) section 3 (3) (c) and 3 (4) (a) (conditions to be satisfied by peer in order to qualify as overseas elector in relation to European Parliamentary election), shall be repealed.

In the Courts

James Preston v. the UK - the case before the High Court in London

James Preston has lived and worked in Madrid, Spain, since 1995 when he was sent there by his British employer. He is a British citizen and only a British citizen, married to a British wife. Both he and his wife work for British firms. He reads British newspapers, his children attend a British school and his estate taxes will be owed to the British government when he dies. Yet in 2009 he was suddenly denied the right to vote in parliamentary elections in his home country, on the grounds that he had lived outside the UK for 15 years.

On 10 March 2010 James Preston applied for judicial review of the legislation which deprives him and others in his situation of the right to vote. Leave for his case to be heard before the High Court in London was granted by the Judge on 16 March 2011. The hearing is expected to take place in the autumn of 2011.

Mr. Preston's lawyers, Cleary Gottlieb Steen & Hamilton LLP

http://www.cgsh.com/court_challenge_against_voting_law_that_disenfranchises_britons_abroad/

and Daniel Jowell QC of Brick Court Chambers, are acting on a *pro bono* (for the public good) basis in view of the important constitutional issue raised by the case.

They argue that the law penalizes British citizens as a result of their exercise of free movement and establishment rights guaranteed by the European Union, in violation of European Law.

Harry Shindler v. the UK - the case before the European Court of Human Rights

Harry Shindler is a World War II veteran who lives in Porto D'Ascoli, Italy. Born in 1921, he served notably with the British Eighth Army in the liberation of Italy in 1944.

On 26 March 2009 he petitioned the European Court of Human Rights (ECHR) in Strasbourg to complain that he is no longer permitted to vote in United Kingdom elections, that he is being discriminated against as his property is outside the United Kingdom, and that he has the right to choose his place of residence without being disenfranchised.

Read here <http://www.bbc.co.uk/news/uk-politics-13347616> how Justin Parkinson of the BCC reported Mr Shindler's application to the ECHR, and the ECHR's response here <http://www2.bailii.org/eu/cases/ECHR/2010/2222.html>

The UK Electoral Commission's view on expat voting rights

In September 2009, Jenny Watson, Chair of the Electoral Commission, launched a campaign to encourage British citizens overseas to register, saying:

"British citizens living abroad come from a wide variety of backgrounds, but we know that most maintain strong links with the UK. It is easier than ever before for British citizens abroad to keep in touch with friends, family and colleagues back home and many will also want to have their say in elections."

The European Commission's view on expat voting rights

Which European Commissioner is responsible?

The European Commissioner responsible for electoral rights is Mrs Viviane Reding of Luxembourg, Vice-President of the 2010-2014 Commission and the Commissioner for Justice, Fundamental Rights and Citizenship. In her Factsheet "Promoting your EU Electoral Rights" (http://ec.europa.eu/commission/2010-2014/reding/factsheets/pdf/02_electoral_rights_en.pdf) Mrs Reding writes:

"Although EU law grants EU citizens the right to participate in municipal and European elections in the Member State where they reside, it provides no such right with regard to national elections.

According to the legislation of several Member States, their nationals lose their right to vote in national elections if they have lived in another Member State for a certain period of time.

Given that EU citizens of those Member States are not able to participate in any national elections, (neither in the Member State of origin nor in the Member State of residence), they are deprived of one of their most important political rights just because they exercise their right to free movement.

The exercise of the freedom of movement should not result in losing an important democratic right. The Commission will launch a discussion to

identify political options to prevent EU citizens from losing their political rights when they exercise their right to free movement.”

On 27 October 2010 the European Commission published its **EU Citizenship Report 2010**. This report recognizes the problem of expats losing the right to vote in their Member State of origin as a result of legislation in certain Member States:

“Some EU citizens who move to and reside in another Member State may lose their right to take part in national elections in their Member State of origin. According to the legislation of several Member States, their nationals are disenfranchised if they live in another Member State for a certain period of time. Many EU citizens informed the Commission and the European Parliament that they are not able to participate in any national elections, neither in the Member State of origin nor in the Member State of residence.

The Commission will launch a discussion to identify political options to prevent EU citizens from losing their political rights as a consequence of exercising their right to free movement.” (European Citizenship Report 2010, recommendation 20, pages 18-19)

The Maastricht treaty and the right to vote where resident

It is true that expats living in another EU Member State from their country of origin have the right to vote in local (municipal) elections and in European Parliament elections in their host country. This right originated in the Maastricht treaty of 1992:

“The Treaty of Maastricht established the Citizenship of the Union in 1992. The foremost purpose of the institutionalization of this new legal status was to strengthen and enhance European identity and to enable European citizens to participate more intensively in the Community integration process.

The right of European citizenship is extended to every person who is a national of an EU Member State. European citizenship does not substitute, but rather supplements, the citizenship of each State.

Those holding European citizenship are entitled to some fundamental rights within the EU, regardless of which State they are citizens. Electoral rights are part of these fundamental rights – every citizen currently has the right to vote and stand as candidate in European and municipal elections in whichever member state they reside in.”

However, the Maastricht provisions do not justify Member States’ withholding the right to vote in national elections from their own citizens on grounds of residency.

In general, countries do not grant the right to vote in national elections to foreign residents.

Citizenship or nationality, not residency, is by far the most usual criterion used by governments to decide who has the right to vote in national elections.

Some people feel that long-term expats should be allowed to vote in the national elections of their country of residence. But most countries are adamant that they are not prepared to give the vote to non-nationals.

The Council of Europe's view on expat voting rights

Since 1982, the 47-member Council of Europe (of which the UK has been a member since 1949) has consistently adopted resolutions and recommendations on issues affecting expats, summing up its position in Resolution 1459(2005) on the right to vote.

These are also detailed in paragraphs 18 to 46 (covering a full seven pages – see pages 4 to 10) of ECHR Application no. 19840/09 by Mr Harry Shindler against the United Kingdom, lodged on 26 March 2009

<http://www2.bailii.org/eu/cases/ECHR/2010/2222.html>

As early as 1982, the Council of Europe's Recommendation 951 on the voting rights of nationals of Council of Europe member states, noted that an estimated 9 million nationals of Council of Europe member states did not reside in their country of origin, but in another Council of Europe member state. These citizens cannot normally take part in elections or referenda held in their country of residence because they are not nationals of that country.

Many such citizens, Recommendation 951 continues, are also unable under national legislation to take part in elections and referenda held in their country of origin because they have no domicile there. **Consequently, millions of nationals of Council of Europe member states are deprived of all civic rights.**

Bearing in mind that one of the Council of Europe's major concerns is to preserve and strengthen democracy and civic rights in member states, and given the importance it attaches in particular to freedom of expression, freedom of peaceful assembly and freedom of association, Recommendation 951 concludes that **steps should be taken to ensure that every national of a member state is able to exercise his political rights, at least in his country of origin, when he resides in another Council of Europe member state.**

Resolution 1459(2005)

The Parliamentary Assembly of the Council of Europe, of which the UK is a member state, summed up its position in Resolution 1459(2005) on the abolition of restrictions on the right to vote.

The text as adopted by the Assembly on 24 June 2005 can be consulted here <http://assembly.coe.int/Documents/AdoptedText/ta05/ERES1459.htm>. Its principal recommendations are:

Electoral rights are the basis of democratic legitimacy and representativeness of the political process. They should, therefore, evolve to follow the progress of modern societies towards ever more inclusive democracy.

It therefore invites the member and observer states of the Organisation to reconsider all existing restrictions to electoral rights, and to abolish all those that are no longer necessary and proportionate in pursuit of a legitimate aim.

The Assembly considers that, as a rule, priority should be given to granting effective, free and equal electoral rights to the highest possible number of citizens. **Due regard should be given to the voting rights of citizens living abroad.**

In line with the case-law of the European Court of Human Rights, any exceptions to this rule must be prescribed by law, **pursue a legitimate aim and not be arbitrary or disproportionate.**

The right to vote and stand as a candidate in national elections (parliamentary or presidential) should generally be attached to nationality. Persons having several nationalities should be allowed to choose freely in which country they wish to exercise their right to vote.

Given the importance of the right to vote in a democratic society, **the member countries of the Council of Europe should enable their citizens living abroad to vote during national elections.** They should take appropriate measures to facilitate the exercise of such voting rights as much as possible, in particular by considering absentee (postal), consular or e-voting.

Member states should co-operate with one another for this purpose and refrain from placing unnecessary obstacles in the path of the effective exercise of the voting rights of foreign nationals residing on their territories.

National parliaments should reconsider existing restrictions and determine whether they still pursue a legitimate aim and are not arbitrary or disproportionate.

The Assembly therefore invites the Council of Europe member and observer states concerned to grant electoral rights to all their citizens (nationals), without imposing residency requirements; [to] facilitate the exercise of expatriates' electoral rights by providing for absentee voting procedures (postal and/or consular voting) and considering the introduction of e-voting.

The Court of Justice of the European Union's view on expat voting rights

The CJEU consistently takes the view in its case law that the Treaty prohibits *any* national measure that may hinder, either directly or indirectly, even the slightest impediment to the exercise of the fundamental free movement rights of European citizens.

“National legislation which places at a disadvantage certain of the nationals of the Member State concerned simply because they have exercised their freedom to move and to reside in another Member State is a restriction on the freedoms conferred by Article 18(1) EC on every citizen of the Union.

The opportunities offered by the Treaty in relation to freedom of movement for citizens of the Union cannot be fully effective if a national of a Member State can be deterred from availing himself of them by obstacles placed in the way of his stay in another Member State by legislation of his State of origin penalizing the mere fact that he has used those opportunities.”

The view of the European Court of Human Rights

On 26 March 2009, Mr Harry Shindler, a World War II veteran who lives in Porto D'Ascoli, Italy, petitioned the European Court of Human Rights (ECHR) in Strasbourg to complain that he is no longer permitted to vote in United Kingdom elections, that

he is being discriminated against as his property is outside the United Kingdom, and that he has the right to choose his place of residence without being disenfranchised.

Born in 1921, Mr Shindler served notably with the British Eighth Army in the liberation of Italy in 1944.

You can read the ECHR's analysis of Harry Shindler's complaint, dated 20 December 2010, here: <http://www2.bailii.org/eu/cases/ECHR/2010/2222.html>

International meetings to defend the rights of expats

Europe in Movement Meeting - Paris, 30 September 2008

Representatives of the expat communities of 24 EU countries met at the French Ministry of Foreign Affairs in Paris on 30 September 2008 to examine the issues affecting the EU's 20 million or so citizens who live in a different member state from their country of origin. These 20 million expats embody the EU's founding principle that gives European citizens the freedom to live and work in any member state of the EU. Although that founding principle is clear and undisputed, many of those who have availed themselves of the right to live and work in another member state have often found themselves deprived of their basic rights.

Several MPs representing their own countries' expats, diplomats, MEPs and ministers were also present. Among them were Bernard Kouchner, the French Foreign Minister, Xavier Bertrand, the French Labour Minister, former French ministers Alain Lamassoure, Catherine Lalumière and Jacques Barrot, the latter also then Vice-President of the European Commission. Enrique Baron Crespo and Pat Cox, both former Presidents of the European Parliament, also spoke.

With some 2.3 million expats of their own, the French were clearly showing that they take expatriate representation very seriously.

The British delegation was successful in having its seven proposals of principle included in the final declaration, including the following:

Voting rights: No citizens of the EU shall be deprived of the right to vote in national elections by reason of their place of residence.

Representation of expatriates: Every EU member state shall maintain structures for the representation of its citizens living abroad.

Europe in Movement Meeting - Rome, April 2010

The follow-up to the Paris Europe on the Move meeting on 30 September 2008 was held in the Italian Senate in Rome on 30 April 2010. Some 130 participants attended, representing European communities across the continents.

The meeting was organised by the Consiglio Generale degli Italiani all'Estero (CGIE), or the General Council of Italians Abroad. The CGIE represents all Italians residing abroad at all institutions implementing policies affecting them. Italians living abroad elect 18 national MPs through 124 community committees.

Speakers included prominent members of the Italian Senate and the CGIE, including the Senate Vice-President and former European Commissioner Senator Emma

Bonino, and Senators Claudio Micheloni and Lamberto Dini. The meeting was coordinated by the Secretary General of the CGIE, Elio Carozza.

Senator Joelle Garriaud-Maylam of France made a special plea to have voting rights explicitly mentioned in the final declaration, given that they are denied to British citizens after 15 years' abroad.

Debates in the UK Parliament

House of Lords debate, 2 March 2011

<http://www.publications.parliament.uk/pa/ld201011/ldhansrd/text/110302-0002.htm#11030294000099> - then search for: Viscount Astor or: 7.22 pm

Viscount Astor (Conservative) introduced the question “To ask Her Majesty's Government whether they will consider changing the voting arrangements for British citizens residing abroad and members of the Armed Forces serving abroad.”

He said “We seem to be the only EU country that does not encourage its citizens living abroad to play an active part in their own country. It is difficult to register and it is difficult to vote. You have to register in the constituency where you last lived in the UK, and you have to prove it, so many do not bother—it is a cumbersome procedure. Through the internet, those living abroad are as close as they have ever been to their home country. It is the same as if they were living here. You can download any national newspaper any morning. You can watch the BBC on a television anywhere in the world. You remain part of your home country and belong to it. [...]

The main groups affected are those who are working abroad, including members of the Armed Forces, and particularly those who have moved or retired abroad. We live in a world where many travel for both short-term and long-term reasons, and their numbers are increasing; but that should not mean that their political rights should not be exercised. The rules are seen to be unfair and totally different from the rules for other EU countries, which not only make it easy but actually encourage their citizens abroad to take part in the democratic process.”

Lord McNally (Minister of State for Justice; Liberal Democrat), said in conclusion :

“Early in this Parliament we should have a really radical look at voting for our overseas residents [...]. On a wide range of the issues raised, such as the 15-year rule which was raised by my noble friends Lord Lexden and Lord Lester, I do not think there is a rationale [...] for the figure of 15 years, five years or 20 years.

However, I think that it is certain that, in a world where many more people work abroad, the issue should be properly looked at.”

Media buzz about denying British expats the right to vote

All we want is the right to vote in elections

Read here <http://www.bbc.co.uk/news/uk-politics-13347616> how Justin Parkinson of the BCC reported Mr Shindler's application to the ECHR

We want to cast our votes, too

Read here <http://www.telegraph.co.uk/news/uknews/4189747/We-want-to-cast-our-votes-too.html> an article in the Daily Telegraph by Sir Dick Pantlin, the Founder, Past Chairman and Honorary President of the British School of Brussels. Sir Dick Pantlin is also the Founder, Honorary President and Past Chairman of the Council of British Independent Schools in the EU and of the Council of British Chambers of Commerce in Continental Europe.

One man, no vote

Read here <http://online.wsj.com/article/SB120812233378411209.html> Gareth Harding's article "One man, no vote" from the Wall Street Journal Europe.

Deprived of his democratic rights

Read here http://www.wantedinrome.com/articles/complete_articles.php?id_art=991 James Walston's article about the Harry Shindler case, which appeared in Wanted In Rome.

The muzzled British diaspora in the EU

Read here

<http://www.europeanvoice.com/CWS/Index.aspx?PageID=200&articleID=67774>

Romano Subiotto's article published in European Voice in which he explains how the disenfranchisement of Britons who have lived abroad for a long time runs counter to history, logic and the EU Treaty.

It affects a million Irish citizens living abroad, too

Read here <http://www.globalirish.ie/2010/is-denial-of-expat-voting-rights-to-eu-residents-a-penalty/> Noreen Bowden's article from Global Irish, in which she suggests that an Irish citizen, disenfranchised in a similar way to James Preston, could surely make a case on the same basis.

An MP for the Costa del Sol?

Read here <http://www.guardian.co.uk/commentisfree/2009/nov/01/expats-deserve-mps> Giles Tremlett's article in The Guardian in which he contrasts the disenfranchisement of British expats with France's 11 parliamentary seats representing French expats throughout the world.

Why expats should be able to keep their votes

Anita Rieu-Sicart, Editor of the Var Village Voice (France) writes [here](#) about British citizens now resident in France and elsewhere who after 15 years have lost their right to vote in the UK

<http://www.telegraph.co.uk/expat/expatlife/8702300/Why-expats-should-be-able-to-keep-their-votes.html>

More British look set to become expats in future

Ian Cowie of The Daily Telegraph explores a growing phenomenon [here](#) <http://blogs.telegraph.co.uk/finance/ianmcowie/100011677/expat-pensioner-exodus-would-the-last-person-to-leave-britain-please-switch-off-the-lights/>

After Hitler in Italy, ex-serviceman Harry Shindler takes on the UK government

Nick Pisa reports here on the challenge to the government from Harry Shindler, a 90-year-old Second World War veteran living in Italy who has taken his case to the European Court of Human Rights in Strasbourg

<http://www.telegraph.co.uk/expat/8291266/Expats-could-win-back-general-election-voting-rights.html>

One rule for us, another for them

Paul Rees points out [here](#) that all expat citizens, not just Government and Civil Service employees, should be able to participate fully in the political process in their home country, through unrestricted voting rights in national elections, as in other advanced democracies. <http://algarvedailynews.com/features/lifestyle/4438-expats-banned-from-voting>

We're at an important fork in the road of the history of democracy

says Brian Cave [here](#), pointing out that the communication revolution has shrunk the world, and British citizens from Australia to London are equally aware of what happens in Britain. No British citizen can be unaware or unaffected.

<http://algarvedailynews.com/community-news/general/4472-expat-brits-banned-from-voting-campaign-update>

Irish elections: Irish expats can't vote either

It's even worse for our Irish cousins, as Denis Fitzgerald explains [here](#)

<http://www.cafebabel.co.uk/article/36578/ireland-voting-abroad-expat-stories-flying-home.html>

British government promises a "really radical look at voting for overseas residents"

French newspaper for British expats The Connexion reports [here](#) how Lord McNally (Lib Dem) of the Ministry of Justice, will give his "very strong endorsement" for action on expat voting rights "early in this parliament".

<http://www.connexionfrance.com/expat-voting-rights-uk-15-year-rule-radical-reform-promised-view-article.html>

Expats deserve more voting rights

The July 2011 of French newspaper for British expats reports here on what expat Brits on the ground feel about voting rights

<http://www.connexionfrance.com/voting-rights-letters-france-expats-british-representation-11527-news-article.html>

British expats demand the right to vote

The www.votes-for-expat-brits.com campaign wants the millions of British expatriates worldwide to lobby the UK Government on the issue of enfranchisement, writes George Prior on the British-expats-in-Spain news website SUR in English [here](#)

<http://www.surinenglish.com/20110927/news/costasol-malaga/british-expats-demand-right-201109271930.html>

Now is the time to act, lobby, campaign and sign up

say Brian Cave of the action group Pensioners Debout and Anita Rieu-Sicart, Editor of Var Village Voice in France [here](#).

<http://lefourquet.net/VVVvotesarticle.pdf>

Harry Shindler, ever a fighter since the Anzio Beachhead in 1944

James Walston of Wanted in Rome recounts the amazing story of Harry Shindler (WW2 liberator of Italy, and now a fighter for British expat voting rights). Read his story [here](#)

http://www.wantedinrome.com/articles/complete_articles.php?id_art=1117

Sign up and show your support

Let's show the government we mean business. Click above to sign up as a supporter of the "Votes for expat Brits" campaign – that means votes for *all* expat Brits, regardless of where they live or how long they've lived there.

Write to the Minister for Political and Constitutional Reform

harperm@parliament.uk

Write to the EU Commissioner for Justice, Fundamental Rights and Citizenship

viviane.reding@ec.europa.eu

Write to your MP

You can find out who your current MP is by going to www.parliament.uk and entering the postcode of your last address in the UK in the box headed "Members of the House of Commons". Then you can either e-mail your MP at the address provided, or post a letter to [name of MP], House of Commons, London SW1A 0AA.

The offending legislation deals with entitlement or otherwise to vote. It does not deny the existence of your relationship to your MP, who under the "last registered address in the UK" approach can only logically be the MP who currently represents the constituency where you used to live. So you are quite justified in writing to him or her. MPs represent *all* their constituents, not only those who voted for them (or who were graciously permitted to vote in the election which returned them to Parliament).

Encouraging statements in the House of Commons

"While we allow a number of people who are not British citizens to participate in elections in this country, we also prohibit a large number of expatriate British citizens from participating in our democracy because they have been living overseas for more than 15 years. **I hope that the Government will in due course address this question in relation to general elections** – Graham Brady MP, in the House of Commons on 18 October 2010

"[...] At the moment there is a 15-year time limit [...] for British citizens who live overseas. **The Government are considering whether to bring proposals before the House in due course.**" – Mark Harper MP, Parliamentary Secretary (Political and Constitutional Reform), Cabinet Office, in the House of Commons on 18 October 2010

British Community Committee www.britishinfrance.com

British Residents' Association of Switzerland www.britishresidents.ch

[followed by links to other British expat organizations]