

# Portugal: extended voting rights and decreasing participation

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Portugal has held free elections since the fall of the dictatorship in 1974, and since that time the voting rights of Portuguese citizens living abroad have been substantially expanded. External voting rights were granted from the outset, but only for elections to the national parliament. Following Portugal's entry into the European Community in 1986, external voting rights were granted for Portuguese citizens abroad to vote for the national lists for the European Parliament elections.

More recently, 1997 marked a major change in the process of external voting in Portugal. The constitution was revised for the fourth time, and one of the specific topics for reform was the rules governing elections. Only minor changes were introduced, but in this constitutional package, agreed by the two major parties, the centre-left Socialist Party (Partido Socialista, PS) and the centre-right Social Democratic Party (Partido Social Democrata, PSD), Portuguese citizens resident abroad became eligible to vote in both presidential elections and national referendums as well as legislative elections. This had been promoted in particular by the PSD in the constitutional negotiations. (The experience of legislative elections since 1976 had shown that the PSD has consistently had a majority of votes among external voters, which helps to explain why that party lobbied for an extension of emigrants' voting rights.)

These changes equalized the electoral rights of Portuguese citizens inside and outside Portugal for all national-level elections, although external voting was not extended to local elections. Portuguese citizens with external voting rights were first able to exercise their right to vote for the president of the republic in 2001. Ironically, the extension of voting rights has coincided with a marked decrease in external voting participation as measured by turnout in legislative elections.

In legislative elections, the electoral system that has been adopted is the proportional representation (PR) d'Hondt system, with closed lists presented in multi-member districts. Portuguese citizens living abroad are grouped into two electoral districts, each electing two members of parliament (MPs). One electoral district covers all European countries, the other the rest of the world ('outside Europe'). The principle of proportionality is therefore not fully observed in the external voting for legislative

elections. This is because in 1976 there were fears that the large Portuguese emigrant community would elect a high proportion of MPs, which was considered unfair given that they do not live in Portugal.

### **Eligibility for an external vote**

External voting can only be exercised if citizens register, although (unlike for citizens residing in Portuguese territory) registration is not mandatory (article 3, no. 3, Law no. 13/99, 22 March 1999). Registration can be done at any time up to 60 days before an election. Those whose 18th birthday falls between registration and election day can, however, register up to 55 days before the election.

For external voting, registration occurs mostly at consulates. If there is no consulate in a particular country, then registration normally occurs at the embassy or another designated registration centre. There are around 200 registration centres abroad, some of which cover more than one country. There are also a few countries where there is more than one registration centre because of the large number of Portuguese citizens in those countries.

Eligibility criteria vary according to the type of election. For legislative elections, the criteria are the same as those for internal electors (voters have to be 18 years or older). For European Parliament elections, until recently only Portuguese citizens resident abroad who were living in another European Union (EU) country could vote, thus excluding all those Portuguese citizens who lived outside the EU. However, this has recently been changed: Organic Law no. 1/2005 of January 2005 allows all electors resident abroad to vote in elections to the European Parliament. The eligibility criteria for external voting in presidential elections have changed since voting rights were extended. All those who were registered to vote in legislative elections by 31 December 1996 can also vote in presidential elections. The criteria for voting eligibility of all other Portuguese nationals residing abroad were to be defined by ordinary law, which should 'take into account the existence of effective ties to the national community' (Constitution of the Republic, article 121, no. 2). However, because these criteria had not been defined when the next presidential election occurred, in 2001, all those registered to vote for legislative elections both before and after 1996 were eligible to vote in those elections. Recently, the criteria for establishing 'effective ties' have been adopted: citizens must (a) have lived in an EU country or in a Portuguese-speaking country for not more than 15 years; (b) have lived in any other country for not more than ten years; or (c) have been to Portugal and stayed there at least 30 days in the previous five years, and be able to prove that they can speak Portuguese (Law no. 5/2005 of 8 September 2005).

Finally, Law no. 5/2005 also states that the eligibility criteria for Portuguese citizens residing abroad for voting in referendums are identical to the criteria applied for such citizens in presidential elections. However, this should be interpreted with caution: Portuguese citizens resident abroad have never actually been called to vote on any referendum, and it is not quite clear whether these rules would indeed apply in any future national referendum (see also below).

## External voting procedure

Here as well there are differences between types of election. Decree-Law no. 95-C/76 of 30 January 1976 sets out the procedural aspects of external voting in legislative elections. In these elections, as well as in European Parliament elections, the external voting right is exercised by post. However, Organic Law no. 1/2005 changed voting procedures for European Parliament elections: voting is now done in person at the designated polling sites.

For elections to the national parliament and the European Parliament (from 1987 to 2004), the Ministry of Internal Administration in Portugal sends a ballot paper with two envelopes to all citizens registered in electoral registers abroad around two to three weeks before polling day. The voter fills in his or her ballot paper, folds it and inserts it in one of the envelopes which he or she then seals and places in the other envelope together with a photocopy of his or her elector's card. All must be sent back to the designated reception point in Portugal and can be posted up until (and including) the day of the election. Ten days following the election, the external ballot papers are opened and counted. In legislative elections, the four parliamentary seats reserved for external voters are then allocated. In European Parliament elections, the external votes are added to the internal national totals (Decree-Law no. 95C/76).

In presidential elections and referendums, Portuguese residents abroad have to vote in person. In these cases, external voting takes place over a period of three days up to and including election day. Registered electors can go to the voting centre closest to their place of residence to cast their vote, which is then opened and counted.

## Registration and turnout patterns in different types of election

Table 1 shows the number of registered external electors and the turnout in each legislative election since 1976. The number of electors grew until 1999, since when it has fallen a little. This may be due to an effort to 'clean' the electoral registers of those who had died or moved—a process that also occurred for the national register in the late 1990s. The drop in turnout is remarkable—from 86.7 per cent in 1976 to 25.2 per cent in 2005. While electoral participation in Portugal has declined substantially, participation by external electors has dropped even more. (It should be noted that there are different patterns of turnout in Europe and outside Europe, with turnout being higher in Europe.)

**Table 1: External voting in Portuguese legislative elections**

Election year	No. of registered electors	No. of votes cast	Turnout (%)
1976	105,709	91,740	86.7
1979	132,273	88,379	66.8
1980	175,577	108,096	61.6
1983	159,188	83,984	45.3
1985	190,818	57,531	30.1

<b>Election year</b>	<b>No. of registered electors</b>	<b>No. of votes cast</b>	<b>Turnout (%)</b>
1987	187,581	49,849	26.5
1991	187,598	61,128	32.6
1995	183,351	43,040	23.5
1999	192,329	45,852	23.8
2002	162,412	39,711	24.4
2005	146,354	36,938	25.2

Source: National Electoral Commission (Comissão Nacional de Eleições, CNE), <<http://www.cne.pt>>.

In European Parliament elections, the electoral system is identical to that for legislative elections, with the important exception that there is only one electoral district. The external vote is simply added to the national vote. Table 2 shows external voting in these elections. Turnout has been very low from the outset.

**Table 2: External voting in European Parliament elections in Portugal**

<b>Election year</b>	<b>No. of registered electors</b>	<b>No. of votes cast</b>	<b>Turnout (%)</b>
1987	71,880	14,572	20.3
1989	54,526	19,360	35.5
1994	84,643	20,722	24.5
1999	84,073	16,079	19.1
2004	70,504	13,269	18.8

Source: National Electoral Commission (Comissão Nacional de Eleições, CNE), <<http://www.cne.pt>>.

The same procedure is also used for presidential elections, which are held using the Two-Round System. Again, there is one electoral district that comprises all electors, both internal and external. External votes are added to internal votes. In the first presidential election where external voting was allowed, participation was extremely low, even by Portugal's external voting standards. In the most recent presidential election, in January 2005, the size of the electoral register and turnout increased slightly but the participation of Portuguese citizens living abroad was still low.

**Table 3: External voting in presidential elections in Portugal**

<b>Election year</b>	<b>No. of registered electors</b>	<b>No. of votes cast</b>	<b>Turnout (%)</b>
2001	185,223	15,431	<i>8.33</i>
2005	187,109	18,840	<i>10.07</i>

Source: Technical Secretariat for Electoral Processes Matters (Secretariado Técnico dos Assuntos para o Processo Eleitoral, STAPE), <<http://www.stape.pt>>.

## Referendums

There were no provisions for referendums in the 1976 constitution. Only with the third revision of the constitution in 1989 was a national referendum allowed under specific circumstances, but the possibility of external voting was not foreseen. The constitutional revision of 1997 introduced a number of modifications to the referendum law. It allows Portuguese nationals resident abroad to vote in referendums, provided they are correctly registered, whenever the referendum deals with issues that concern them specifically. This last provision is ambiguous and lends itself to significant political argument about whether in any given referendum Portuguese citizens resident abroad may or may not vote. In practice, there have been two referendums in Portugal: one in 1998 on abortion and another in 1999 on the issue of regionalization. In both instances, following Constitutional Court rulings (Ruling 288/98 and Ruling 532/98), external voting was not allowed.