

Permanent Residency and Political Rights for Long-Term Migrants in the EU

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**UNIVERSITY OF ZAGREB
FACULTY OF POLITICAL SCIENCE
MASTER OF EUROPEAN STUDIES**

Magdalena Robert Tsaneva

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FOR LONG-TERM MIGRANTS IN THE EU**

GRADUATE THESIS

**Zagreb,
2024**

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GRADUATE THESIS

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Student: Magdalena Robert Tsaneva

**Zagreb,
2024**

I declare that I have written my graduate thesis/final specialist thesis *Permanent Residency and Political Rights for Long-term Migrants in the EU* that I submitted to my mentor izv. prof. dr. sc. Enes Kulenović for evaluation, independently, and that it is entirely in my authorship. I also declare that the paper in question has not been published or used to fulfill teaching obligations at this or any other institution of higher learning, and that I did not obtain ECTS credits based on it. Furthermore, I declare that I have respected the ethical rules of scientific and academic work, particularly Articles 16-19 of the Code of Ethics of the University of Zagreb.

Magdalena Robert Tsaneva

1. Introduction	2
2. Migrants and the European Union	4
2.1. International Protection	5
2.2. Foreign legal status	6
2.3. Long-term Residency	7
2.4. Citizenship (dual citizenship)	9
3. Literary Review	10
4. The European Union and Human Rights	13
4.1. The Universal Declaration of Human Rights (UDHR)	14
4.2. The European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)	15
4.3. The EU Charter of Fundamental Rights (CFR)	17
5. Direct Political Participation of Long-Term Residents in the EU	18
5.1. Theoretical Grounds for Direct Political Participation of Long-Term Residents in the EU	19
5.2. Existing Opportunities for Political Participation of Third-country Residents	23
5.3. European Elections and the Necessity of Voting in the EU	24
6. Proposal of Solutions	26
7. Conclusion	28
List of Resources	30
Table of Illustrations	33
Summary	34

1. Introduction

It is no secret that Europe, and the European Union in particular, is home to some of the world's oldest populations, such as Italy, Germany, and Finland for example, and this is followed by an additional negative natural population change (the difference between births and deaths). To address those demographic trends and the decline in population, it has been extensively discussed that the EU could consider implementing more proactive migration policies that attract and integrate skilled and unskilled labor. An example is the stay-and-work permit, also known as the EU Blue Card. However, attracting migrants and providing them with permission to stay does not necessarily include or even consider actual decision-making participation for the newcomers. How is this relevant and why should non-EU residents be able to participate in the EU-level political decision-making?

According to the European Commission's website, as of the 11th of April 2024, 27.3 million non-EU citizens were residing in the Union (European Commission, 2024), representing 6% of the 27-nation bloc's 448.8 million inhabitants. Additionally, the European Union is in seventh place for hosting the biggest percentage of refugees globally, with Germany in third place and Poland fourth in global statistics (European Commission, 2024). As the number of migrants (refugees/asylum seekers or not) is set to increase with world conflicts rising, economies destabilized and global warming challenging life in many parts of the world, this thesis will argue that migrants and migration are in a position of urgent reconsidering of EU's socio-cultural reality and its' political decision making.

Undoubtedly, migrants have been included more indirectly in the political life of the European Union (and in their residing Member State) through Political consultative bodies for example, NGOs, and other political organizations as this research will showcase. However, long-term migrants/migrants with permanent residency status (including refugees that have received such residency; people marrying EU citizens; etc.), are currently facing a lack of any potential direct political voice. Despite being residents of an EU country for over 5 years, being married to residents of the EU Member States, having families in the Union, etc., this does not prove to be enough for such people to have a political voice within the EU, and more specifically - in the European elections.

This research has the aim to look at the current migrant situation in the EU, by particularly concentrating on the people with long-term residency permits. It shall explore the EU's commitment to promoting and protecting human rights and will concentrate on the aspect of

third-country non-EU citizens permanently residing in a Member State and participating both in the state's society as well as in the general EU society, internal market, cultural life, etc.

This paper proposes the hypothesis that the EU is hindering permanent residents' voting and democratic participation rights by gatekeeping this status exclusively for citizens of EU Member States neglecting the realities of having 6% of other nations within its borders, who can potentially seek permanent residency. It will present the current political participation opportunities long-term residents have in the EU and will argue for the importance of its development.

This paper will only look into specific Member State legislation or national citizenship policies as examples and shall refrain from the sovereign jurisdiction of Member States on providing the status to their third-country residents. The interest of this research remains solely on the people who have received the status of permanent residents within any EU Member State and who, as aligned with the hypothesis, can be eligible for direct political participation on an EU level by voting in the European elections.

This research has no aim to put in doubt or suggest any improvements or alterations within the legal framework of any human rights-related laws, policies, or charters. It shall simply explore the existing work and rely on it to test the outlined hypothesis. It shall rely on the critical theory approach by questioning existing power structures and inequalities in society regarding human rights and social justice for the particular group of interest.

2. Migrants and the European Union

Before diving into the status a third-country person can have within the EU, specific attention should be brought to the Treaty on the European Union (TEU) and more specifically, to Article 2:

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail (TEU and TFEU, 2012).

As a founding ground of the EU is the respect for *human dignity, freedom, democracy, equality, the rule of law and respect for human rights*, this paper would like to go through the extent to which this definition spreads. In doing so, it will first explore the necessity of better understanding third-country residents in the EU.

As mentioned in the introduction of this research, according to the Commission, as of June 2024, an estimated 27.3 million individuals residing within the European Union hold citizenship from non-EU Member States. Furthermore, “in 2022, 9.93 million non-EU citizens were employed in the EU labor market, out of 193.5 million persons aged from 20 to 64, corresponding to 5.1% of the total” (European Commission, 2024). This, according to the latest mentioned statistics, corresponds to almost ten million third-country people, freely participating in the internal market, in the free Schengen area, accessing EU healthcare, etc.

Migration, in the context of Europe, follows a rise each year, and “according to the latest estimates prepared by the Population Division, in 2020, the number of international migrants worldwide – people residing in a country other than their country of birth – reached 281 million” (UN, 2020). Furthermore, around one-third of those migrants reside in Europe, an estimated 31% for 2020 (UN, 2020). Due to the rise of armed conflicts worldwide, resulting in 117.3 million forcibly displaced people (UNHCR, 2023), and considering that EU countries are some of the safest destinations for both refugees and migrants, the European Union presents a potential opportunity both for many of these individuals and for the Union itself.

For the purpose of this research, brief definitions of the statuses that migrants may receive from entering to residing in the EU shall be provided. These definitions will be separated into

the following three main groups - asylum and protection; residency permits; and citizenship. This research is specifically dedicated to the potential voting rights in European elections of people with long-term residency permits residing in the EU, however, it is important to acknowledge this status can be obtained by any of the people who are entering the Union with the below-listed statuses.

2.1. International Protection

The EU follows *Directive 2011/95/EU of The European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted*. This Directive relies on the Geneva Convention “affirming the principle of non-refoulement and ensuring that nobody is sent back to persecution” (Directive 2011/95/EU). In addition, the EU has developed the Asylum Procedures Directive, the Reception Conditions Directive, the Qualification Directive, including a European Union Agency for Asylum (establishing the legally binding rules and procedures that Member States must follow to guarantee the protection of the rights of applicants for international protection), amongst other measures and bodies, trying to ensure the safety and legal aspects of people seeking protection within the Union.

In this international protection section, according to the *Directive 2011/95/EU of The European Parliament and of the Council*, falls the refugee status and the subsidiary protection status, which includes stateless people, people in the process of application (“applicant”), family members and minors (under family reunification and “best interests of the child”). Additionally, temporary protection (under the Temporary Protection Directive) should also be included in this category. This is an exceptional EU measure put into action in “cases of mass influx of displaced persons who cannot return to their country of origin have become more substantial in Europe in recent years. In these cases it may be necessary to set up exceptional schemes to offer them immediate temporary protection” (Directive 2001/55/EC). Such a case was the large displacement of persons by the war in the former Yugoslavia, and the current war of aggression against Ukraine, resulting in over 4.2 million people from Ukraine under temporary protection according to the latest data provided by the European Council as of 24 January 2024.

2.2. Foreign legal status

Regarding particular immigration regulations in the Union, these are primarily determined by each individual Member State, however, the EU has directives, regulations, etc., that set standards for granting third-country residents legal permits to enter the EU area. This foreign legal status category, named in this way for the purposes of this particular research, will include all non-EU citizens, also called “third-country nationals”, who are residing legally within any EU Member State. These include people staying in the Union for a few days, months, or longer, by holding a visa (for travel, work, or educational purposes), a temporary residence permit, or a long-term residence permit (which will be explored in more detail in the next subchapter).

The EU created *Regulation (EU) 2019/1155 of the European Parliament and of the Council of 20 June 2019 amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code)*, to ensure the balance between the migration flow within the Union, as well as the security concerns that come with it. “The common visa policy should contribute to generating growth and be consistent with other Union policies, such as those concerning external relations, trade, education, culture and tourism” (Regulation 2019/1155/EU). Under this regulation, both short-term and medium-length-term visas must not exceed 180 days.

Currently, there is no single overarching EU regulation or directive that governs temporary residency for non-EU citizens within the entire European Union. Immigration policies and regulations are primarily in the jurisdiction of each Member State. However, on the webpage “EU Immigration Portal”, the EU provides more information on the various categories of people coming/staying in the Union covered by the EU Directives, such as high-quality workers (EU Blue Card), Intra-Corporate transfers, researchers, seasonal workers, students, volunteers, etc.

2.3. Long-term Residency

Regarding long-term residency, the EU provides an extensive supply of directives, regulations, and policies, supporting and guiding Member States in safeguarding both the Union and the third-country nationals residing within it. One of the main such documents is the *Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents*, taking responsibility for people who

have lived legally in an EU Member State for an uninterrupted period of five years, thus making them eligible to obtain the status of a long-term resident.

For long-term permit residents, the jurisdiction of the EU is quite vast compared to the one for people holding any of the other above-mentioned foreign legal statuses. According to *Directive 2003/109/EC*, long-term residents benefit from rights, freedoms, protections, and obligations almost the same as those of the EU (Member State) citizens. There is, however, one great important note when it comes to EU law - Member States can still have their word when it comes to execution and implementation.

Harmonisation of the terms for acquisition of long-term resident status promotes mutual confidence between Member States. Certain Member States issue permits with a permanent or unlimited validity on conditions that are more favourable than those provided for by this Directive. The possibility of applying more favourable national provisions is not excluded by the Treaty. However, for the purposes of this Directive, it should be provided that permits issued on more favourable terms do not confer the right to reside in other Member States (Directive 2003/109/EC).

When an EU member country issues a long-term residency permit to a third-country resident, the state decides whether it will offer better conditions than the minimum requirements of the EU. Additionally, according to *Directive 2003/109/EC*, the permit issued does not automatically allow its holder to live in another EU country, however, this has been significantly changed through the *Proposal for a Directive of the European Parliament and of the Council concerning the status of third-country nationals who are long-term residents (recast)*. In 2022, this recast aimed to create a more effective, coherent, and fair system for EU long-term residents making it easier for non-EU nationals to move to other Member States to work or study.

According to the latest information present, in January 2024, the recast proposal entered the trialogue phase (Orav, 2024: 1). The changes offered in the proposal are oriented towards simplifying the process of obtaining this status; strengthening the rights of long-term residents and their families; exploring the right to reside in another Member State freely; removal of the labor market tests - admitting migrant workers after exhausting local labor options. This research will argue that long-term residents must be additionally considered for having the right to vote in European elections.

Permanent residency can be seen as the last “level” before a migrant might want to obtain citizenship in any EU country. This is a semi-citizen status in which third-country residents have been participating in an EU state’s system for a minimum of five consecutive years by paying taxes to a Member State; paying for health care; participating in the EU single market; meaning those people are participating in and benefiting the EU. However, they cannot directly participate in its political decision-making. Is the European Union excluding long-term EU residents harming the core understanding of their human rights? “While the merits of conditioning voting rights on residency may be debatable from a political or moral standpoint, the denial of voting rights for non-resident citizens challenges our understanding of a core treaty-based human right” (Lappin, 2016: 859).

2.4. Citizenship (dual citizenship)

Citizenship is a legal status signifying the belonging of one individual to a particular sovereign country and its community. A citizen has rights and obligations including the right to vote and only “through the granting of legal status as a citizen that a modern state officially recognizes someone as a member of the political community” (Carens, 2013: 20). In the context of the Union, EU citizenship is granted automatically to anyone who holds the nationality of any of the EU Member States, meaning that all EU residents have double citizenship of a kind - they have rights and obligations to their states and to the whole Union and its communities.

“Legal citizenship is not a natural category, and acquiring citizenship is not a natural outcome of being born. People acquire citizenship as a result of some chosen set of legal rules, some political practice that states have established” (Carens, 2013: 21). In the context of the EU, many of its people were not born as EU citizens, however, through accession in the Union, they have been granted this additional form of citizenship. As with any kind of double citizenship to two (or more) countries, citizenship to the EU gives people other rights and obligations additional to the national ones. These are covered primarily by *The Treaty on the Functioning of the European Union* (Article 18) and the *Charter of Fundamental Rights* (Chapter V). Some of those exceptional EU rights include freedom to move and reside within the EU; vote and stand as a candidate in the European Parliament; protection from discrimination on the basis of nationality; right to seek help from any EU Member State’s embassy or consulate when in a country outside the EU and your national country does not

have a representative institution; right to petition the European Parliament; additional market rights and freedoms, etc. (European Commission, 2023: 3-20).

The EU citizenship as explained above, as additional and frankly complementary, may as well have the potential to be its own kind of citizenship as the so-called *sui generis* nature of the EU itself. This research would like to propose that in the face of sovereign nations having strict ties to citizenship and direct political participation, the Union may not necessarily have to follow this structure in order to uphold its high human rights commitments.

3. Literary Review

In the context of global crises resulting in displacement and migration, researchers have been exploring displaced people and their rights, including political participation. In Europe, this became particularly urgent with the war in Ukraine triggering the biggest refugee wave since the Second World War with people seeking not just asylum, but potentially a new home. Understanding how access to voting rights can empower migrants (and particularly people with long-term residency status), foster a sense of belonging, and contribute to a more democratic and economically strong Europe is not just a theoretical question, but a pressing issue with real-world consequences.

Joseph H. Carens in *The Ethics of Immigration* explores the moral aspects of contemporary politics and how that impacts immigrants and their rights within new states in the so-called Western world. In his research, he outlines the theory of social membership and argues for the idea that “immigrants belong, and democratic states and populations ought to adjust their policies and self-understanding to make that belonging more of a social reality” (Carens, 2013: 4). He explores the connection between moral and political issues, and what policies are morally acceptable. It is important to note that his research is based on the fact that he does not “think that states really have a fundamental moral right to control immigration” (Carens, 2013: 10).

Furthermore, Carens argues “that legal residents should enjoy most of the rights of citizenship and that in practice they normally do” (Carens, 2013: 14). As mentioned in the previous chapter of this thesis, currently EU permanent residents do have quite similar rights and responsibilities as EU citizens and there is a process in place for them to have more, however, EU voting rights are not in the agenda. In Chapter 5 of *Permanent Residents* of the

book *The Ethics of Immigration*, even Carens gives an example of himself, being somewhat pushed by circumstances to acquire citizenship with the sole aim of voting - “I applied for citizenship because I wanted to vote in Canadian elections and gain legal status that officially recognizes the identity that I had acquired - my sense of myself as a Canadian” (Carens, 2013: 88).

Nevertheless, Carens poses the question, of whether everyone wanting to vote in their current country of residence and country of sense of belonging, has to wait to become a legal citizen and what happens if they choose not to. “Overall, many permanent residents spend their entire lives in states in Europe or North America without becoming legal citizens and without that fact affecting their lives in any significant way apart from their not being able to vote (which many citizens (...) choose not to do anyway)” (Carens, 2013: 92). As this research will later demonstrate, the European Union is facing low election rates in a number of Member States, drop rates in others and, for the past couple of years, no general significant improvement has been recorded.

Another author exploring the realities and rights of migrants living in the Western world is Seyla Benhabib. In her book *Another Cosmopolitanism*, Benhabib talks about the so-called outsiders/the migrants and the locals/citizens, and how “in fact, the very binarism between nationals and foreigners, citizens and migrants is sociologically inadequate and the reality is much more fluid as many citizens are of migrant origin and many nationals themselves are foreign-born” (Benhabib, 2006: 68). She argues that democratic iteration - the ongoing process of public dialogue and debate where citizens reinterpret and renegotiate democratic norms and principles, is a solution to reconciling cosmopolitanism.

Similarly to Joseph H. Carens, Benhabib explores the realities of contemporary global order and how it is affecting the peoples’ movement, resettlement, and opportunities, or the insufficient such, for belonging. “The idea that citizenship is the special status that distinguishes insiders from outsiders is so deeply rooted in our traditions of thought and expression that it is hard sometimes to recognize how poorly this fits with our actual practices, how rare it is to reserve rights exclusively for citizens, and how difficult it would be to justify doing so” (Carens, 2013: 109). In comparison to Carens, what Benhabib pushes forward, is an offered solution through the practice of “democratic iteration”.

Moreover, in Chapter Two *Democratic Interations* of the book *Another Cosmopolitanism*, Benhabib directs the attention to the colonial past of EU countries, such as the founding states

Germany and France, highlighting the consequences this has on the cultural reality of Europe and the shared moral obligations it brings. “The presence of so many migrants from Algeria, Tunisia, and Morocco, as well as from central Africa, testifies to France’s imperial past and conquests, just as the presence of so many Gastarbeiter in Germany is a reflection of the economic realities of Germany since World War II” (Benhabib, 2006: 65). These realities of moral obligations are set to intensify as the “traditional” migrant waves are now accompanied by new ones rising each year, triggered by the increasing number of conflicts, in addition to the developing scope and reach of the international humanitarian law.

The European Union and its Member States have traditionally faced refugee and migrant waves since before the formation of European states as we now know them. Adaptability towards different ethnicities, cultures, religions, etc. is part of European history as a whole as “peoplehood is a dynamic and not a state reality. A demos can alter its own understanding of citizenship, which in turn will alter the ethos, understood as a shared community of fate” (Benhabib, 2006: 69). Furthermore, the “demos” of Europe and the European Union is part of a democratic system, a system that serves its various 27-state peoples, including their legal residents.

An opposing view to the two previously mentioned theories is offered by the political theorist David Miller. He defends the ability of states to exercise control over their sovereign borders and limit immigration according to community preferences. In his paper from 2015 *Is there a human right to immigrate?*, Miller gives “three reasons why states and their citizens may have a legitimate interest in controlling immigration (...): population size, cultural integrity, and the composition of the citizen body itself” (Miller, 2015: 2). In this particular research, he talks about a proposed human right to immigrate, and defends the theory that such a right could break the fabric of national states and their communities.

In the above-mentioned research, Miller goes into detail about why a person’s “right to leave one particular state does not entail the right to enter any state of one’s choosing” (Miller, 2015: 7). This, however, proves somewhat wrong when it comes to the system in which the European Union currently operates where Member State citizens and residents are allowed to go to any of the other 27 Member States of their choosing (particularly made possible with the border-free Schengen area). Moreover, this free movement of one’s choosing within the EU is supported by regulations, laws, and policies allowing EU citizens not only to move but practically to immigrate relatively freely based on their somewhat personal choice. This

particular right, as mentioned in the previous chapter, can be soon held by EU permanent residents as offered in the *Proposal for a Directive of the European Parliament and of the Council concerning the status of third-country nationals who are long-term residents (recast)*.

Even if a “human right to immigrate” is just a concept/theory in the present day, the European Union’s Article 21 of the *Treaty on the functioning of the European Union* and Article 45 of the *EU Charter of Fundamental Rights* outline that all EU citizens and their family members have the right to move and reside freely within the EU. On this ground, it can be argued that such a human right to immigration, in a way, is already put into practice in the context of the sui generis European Union. This thesis will argue that if the Union is able to practice such flexible laws and regulations, covering its citizens, it is further flexible in its definition of the rights, duties, and responsibilities that legal residents can have, including long-term residents’ rights to vote in European elections.

Regarding this current thesis, it is interesting to mention “a crucial difference” Miller identifies “between interacting with fellow citizens, with whom together we are responsible for controlling the massive apparatus of the modern state, and interacting with people elsewhere with whom one may share aims and interests” (Miller, 2015: 2). This current research will not aim to look into the theory of human right to immigrate, however, it will support the idea that long-term residents are equally responsible for contributing to “the massive apparatus of the modern state”. Furthermore, giving long-term residents a right to direct political participation can contribute to a more inclusive and economically resilient Union with a shared political responsibility between “fellow citizens” and “newcomers”.

4. The European Union and Human Rights

This chapter will briefly present the main policies that the European Union is dedicated to concerning human rights and will examine how those legislative documents are, or have the potential to be, connected to the human rights of third-country long-term residents in the EU. This research would not claim that there is a human right to vote in any country where a person resides; however, it will suggest that there is an inclination that a person should be allowed to vote in the country where they legally and intellectually participate.

As the Union is built on fundamental human rights, democracy, and the rule of law, apart from signing the *Universal Declaration of Human Rights (UDHR)*, there are two other

additional documents regarding human rights protection that will be taken into account for this research. The first is the *European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)*, and the second one is the *EU Charter of Fundamental Rights (CFR)*.

Apart from those three main human rights policies, the EU has additional policies promoting and protecting human rights such as the *Equal Treatment Directive 2006 (2006/54/EC)*, or, for example, the *Strategy on the Rights of Persons with Disabilities*. Additionally, there is the *European Instrument for Democracy and Human Rights (EIDHR)* used to include human rights clauses in international agreements. Another mechanism is the *Fundamental Rights Agency (FRA)* providing expert advice and data on the fundamental rights to the EU institutions and Member States, ensuring that the Union's legislation respects fundamental human rights.

It is important to note that “Not every legal right deserves to be called a human right. Human rights are moral claims that states are obligated to respect in their legal systems (even though, as we have seen, the interpretation and implementation of those rights may vary among states)” (Carens, 2013: 97). This research is simply going to try to prove the moral claim of including third-country long-term residents in the European elections, and will further try to underline the Union's capacity to do so.

4.1. The Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights (UDHR), adopted in 1948 by the UN General Assembly, “was the first global human rights document to set a common standard to which all nations should aspire, characterized by a vision of human rights as universal, indivisible and interdependent, with no primacy for some rights over others and no cultural or geographic exceptions” (Shreeves, 2023: 1). The Declaration served as a key reference for the creation of the *European Convention for the Protection of Human Rights and Fundamental Freedoms*. “While the Treaty on European Union does not explicitly mention the Declaration, it provides for strict observance of international law, including respect for the principles of the UN Charter” (Shreeves, 2023: 2).

When it comes to the right to vote and its connection to human rights, within the UDHR, Article 21(1) states that “Everyone has the right to take part in the government of his country,

directly or through freely chosen representatives”. Furthermore, Article 21 (3) continues by outlining that “the will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures”. Neither of the two subsections of Article 21 specifically talk about the right of political participation to a person being exclusively a citizen of “his country”. Moreover, “the will of the people” within a country “shall be the basis of the authority of government” does not exclusively point out a legal status of “the people”.

4.2. The European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)

The European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) is an international convention of which the European Union and its Member States are part. This particular policy, drafted in 1950, underlines that “the aim of the Council of Europe is the achievement of greater unity between its members and that one of the methods by which that aim is to be pursued is the maintenance and further realisation of Human Rights and Fundamental Freedoms” (Council of Europe, 2021: 5). It is important to note that the ECHR also established the European Court of Human Rights (ECtHR), protecting individuals from human rights violations, meaning that the citizens of the EU are protected by a national court, by the Court of Justice of the European Union (CJEU) and by the ECtHR.

Similar to the UDHR, the ECHR has no particular formulation of a “citizen” as the only person entitled to the right of political participation. Furthermore, Article 10 (1) is dedicated to protecting the right to hold one’s own opinions - “everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers (...)” (Council of Europe, 2021: 12).

Meaningful participation in a society one legally resides in and contributes to includes having a say in how it is governed. Voting is a fundamental form of expression, both political and democratic expression, and is a means for long-term residents to participate in public life, thereby realizing fully their rights under Article 10. Denying the right to vote does restrict the ability to exercise this freedom of expression fully and effectively. As it will be further

explored in this research, some opportunities for third-country residents to vote in Member States' local elections, for example, have been provided, which highlights a governmental understanding (at least in some countries) of the necessity of direct political participation and political expression.

Article 11 (1) states that “everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests” (Council of Europe, 2021: 12). Both articles underline fundamental principles of democratic participation and indicate the importance of collective action and representation in protecting individual rights.

Article 14 “The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status” (Council of Europe, 2021: 13). Taking particularly “national or social origin” and “other status” can be linked to long-term residents, who despite not holding a citizenship status, often share many of the same responsibilities, contributions, and community ties as citizens. Denying them the right to vote based solely on their national origin or other citizenship status can be seen as contradictory to the non-discrimination principle of Article 14. Furthermore, in the contemporary global world and particularly in the EU, many people are proving to be capable of belonging to more than one country's society.

Moreover, the spirit of Article 14 guarantees equal treatment in the enjoyment of the rights outlined in the ECHR. Voting is a fundamental democratic right and denying this right to long-term residents, who are otherwise legally proven to be integrated into the country's socio-economic fabric, represents unequal treatment based solely on nationality. As it was discussed previously in this research, in the context of the Global West, and Europe in particular, “the local, the national and the global are all imbricated in one another. Future democratic iterations will make their interconnections and interdependence deeper and wider” (Benhabib, 2006: 74). Allowing third-country residents to vote promotes equality, one of the Union's core values outlined in the *Treaty on European Union*, and aligns with the principle of non-discrimination promoting full integration.

Article 10 (freedom of expression), Article 3 (right to free elections), and Article 14 (anti-discrimination) together reinforce the argument that discriminating against long-term residents in voting matters can be argued as unjust. The intersection of these rights outlined in

the ECHR underscores the necessity of non-discriminatory practices in granting voting rights. Moreover, the European Court of Human Rights has progressively interpreted Article 14 to cover various cases regarding discrimination, including those based on residency status.

4.3. The EU Charter of Fundamental Rights (CFR)

The EU Charter of Fundamentals rights, unlike the UDHR and the ECHR, covers both more specifically the protection of the freedoms and rights of the EU's citizens, however, it includes the rights of the EU residents as well. According to the Preamble of the CFR, the Charter reaffirms "the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Social Charters adopted by the Union and by the Council of Europe and the case-law of the Court of Justice of the European Union and of the European Court of Human Rights". Having this in mind, some of the articles in the CFR overlap in spirit with the other policies mentioned. For example, Articles 12 and 21 of the CFR regarding the protection from discrimination outline equal treatment as in Article 7 from the UDHR, and as in Article 14 of the ECHR.

In Article 39, unlike in the other above-mentioned documents, citizenship rights and their connection to voting are exclusively underlined - "every citizen of the Union has the right to vote and to stand as a candidate at elections to the European Parliament in the Member State in which he or she resides, under the same conditions as nationals of that State". The same is regarding Article 40 stating that "every citizen of the Union has the right to vote and to stand as a candidate at municipal elections in the Member State in which he or she resides under the same conditions as nationals of that State".

Going further through the CFR, there is Article 41 regarding the right to good administration:

1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union.

2. This right includes:

(a) the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;

(b) the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy;

(c) the obligation of the administration to give reasons for its decisions.

3. Every person has the right to have the Union make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.

4. Every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language.

The formulation of Article 41, stating the rights of “every person” and particularly every person’s “right to have the Union make good any damage caused by its institutions” can be argued to go in contradiction with the exclusive rights of only Member State citizens to do so. Across all the legal statuses that can be held within the EU by its legal residents, having the right of factual participation in forming those institutions is absent.

By having the three most important for this particular research human rights instruments outlined, by putting emphasis on the Articles related to this research’s topic, it is important to underline that EU legislation undergoes constant revision and reformulation. The Union’s legal institutions constantly cover cases that require the interpretation of the UDHR, the ECHR, or the CFR which calibrates the legal framework of the EU and its Member States. As it was explained above with the example of the *Proposal for a Directive of the European Parliament and of the Council concerning the status of third-country nationals who are long-term residents (recast)* being in the trilogue stage as of January 2024, it is expected that there is space for assuming third-country residents’ rights to vote in European Elections exists.

5. Direct Political Participation of Long-Term Residents in the EU

Having the European Union’s commitment to respecting human rights outlined in the previous chapter, this section of the research will provide ground for the consideration of granting third-country long-term residents in the EU the right to participate in European elections. The Council *Directive 2003/109/EC* of 25 November 2003 concerning the status of third-country nationals who are long-term residents steps on the fact that:

This Directive respects the fundamental rights and observes the principles recognised in particular by the European Convention for the Protection of Human Rights and Fundamental Freedoms and by the Charter of Fundamental Rights of the European Union (Directive 2003/109/EC).

Additionally, having in mind Article 41 (2a) of the CFR, stating “the right of every person to be heard, before any individual measure which would affect him or her adversely is taken”, the human rights ground for this direct political participation theory does exist. Furthermore, the same Directive cited above, claims that “the integration of third-country nationals who are long-term residents in the Member States is a key element in promoting economic and social cohesion, a fundamental objective of the Community stated in the Treaty (Directive 2003/109/EC).

5.1. Theoretical Grounds for Direct Political Participation of Long-Term Residents in the EU

As the only current way to vote in the European elections is by holding an EU Member State citizenship, this would imply that any third-country national who would like to have their vote within the Union must apply for citizenship in one of the Members. However, that may include dual citizenship, if possible, as many countries in the EU either do not provide such an opportunity or have complicated procedures and requirements that not everyone can meet. According to Immigrant Invest, a consulting firm helping wealthy people obtain second citizenship by investment, only 15 EU states allow such dual citizenship (Baranova, 2024).

In scenarios when dual citizenship is not possible, or hard to obtain, third-country nationals are permanently left in the status of a long-term resident, as no one must be asked to turn out from their birth citizenship. This research does not aim to doubt or discuss whether a third-country resident wishes to participate or not directly in EU politics by casting their vote in European elections. This paper simply argues that permanent residents are spending their lives in Member States without becoming wanting to become legal citizens and it is high time that a solution for this trend is considered.

The complication between fundamental human rights that all states are obligated to follow, and political/legal rights, that can be adjusted on a country-by-country basis, is that the first is considered universal, and the latter explicit, or as called by Carens in *The Ethics of Immigration* “membership-specific human rights”. As explained above in the Literary

Review section of this research, some theorists, such as David Miller are against extending most of the state membership (citizenship) rights to any third-country nationals, and other scholars, such as Joseph H. Carens, are promoting the removal of some such barriers so to expand non-citizen's rights to participation. Carens does not argue "for complete elimination of the remaining distinctions" (Carens, 2013: 100), and neither does this research. However, for the EU not to hinder fundamental human rights, in order to overcome low election turnout rates, and overcome the growing discrimination and currently rising far-right moods within its Member States, a new way of considering who belongs and has the right to political democratic choice should be prioritized.

In *The Ethics of Immigration*, Carens asks a question quite relevant to this particular thesis - "must all democratic states treat residents in the same way or are there many morally acceptable options, depending upon the historical traditions and political choices of particular democratic communities?" (Carens, 2013: 89). In the case of the European Union, described as a democratic sui generis international organization/community (highlighting international), it is not expected or required for it to function as a singular state-like system where ethnic or national belonging must prevail. The EU has the capacity, competency, democratic freedom, and privilege "to determine the rules of membership according to their cultural self-understanding and in accordance with desires to preserve cultural majorities" (Benhabib, 2006: 69).

It is important to highlight here once more that the non-EU citizens residing in the EU, represent 6% of the 27-nation bloc's 448.8 million inhabitants (European Commission, 2024), a percentage that can objectively grow but does not statistically pose a threat to the "cultural majority" of the already international Union. Moreover, not all of those non-EU citizens represent long-term/permanent residents, however, represent third-country citizens currently living within the EU legally. It is crucial to emphasize that "the fact that their presence is legally authorized by the state is a key distinction from those who are present without authorization" (Carens, 2013: 90). This indicates that a Member State, adhering to EU migration laws and regulations governing third-country nationals, has officially granted permission for such individuals to reside and contribute to the entire European Union community.

Furthermore, "unlike visitors, both residents and citizens live within the state and participate in its civil society on an ongoing basis. Like citizens, residents are members of society"

(Carens, 2013: 96). As members of the society, third-country residents are expected to contribute and participate in the economic life of the given Member State, meaning to also participate in the economic life of the Union itself. Annually, Eurostat and the European Migration Network provide an *Annual Report on Migration and Asylum* which presents the European statistics on migration and asylum in the EU and Norway. According to the latest report covering 2023 and published in July 2024, the highest percentage of third-country nationals in the EU are in legal working age, which depending on the national states' laws and policies, is between the age of 15 to 64 years old.

In *Figure 1.* below, representing the *Age structure of nationals and third-country nationals, EU and Norway*, it can be seen that for people between the ages of 20 up to the age of 50 (both men and women), the third-country-nationals are a higher number than the nationals of the reporting country. One of the main reasons for this is the general aging population of the old continent as explained in the introduction section of this research.

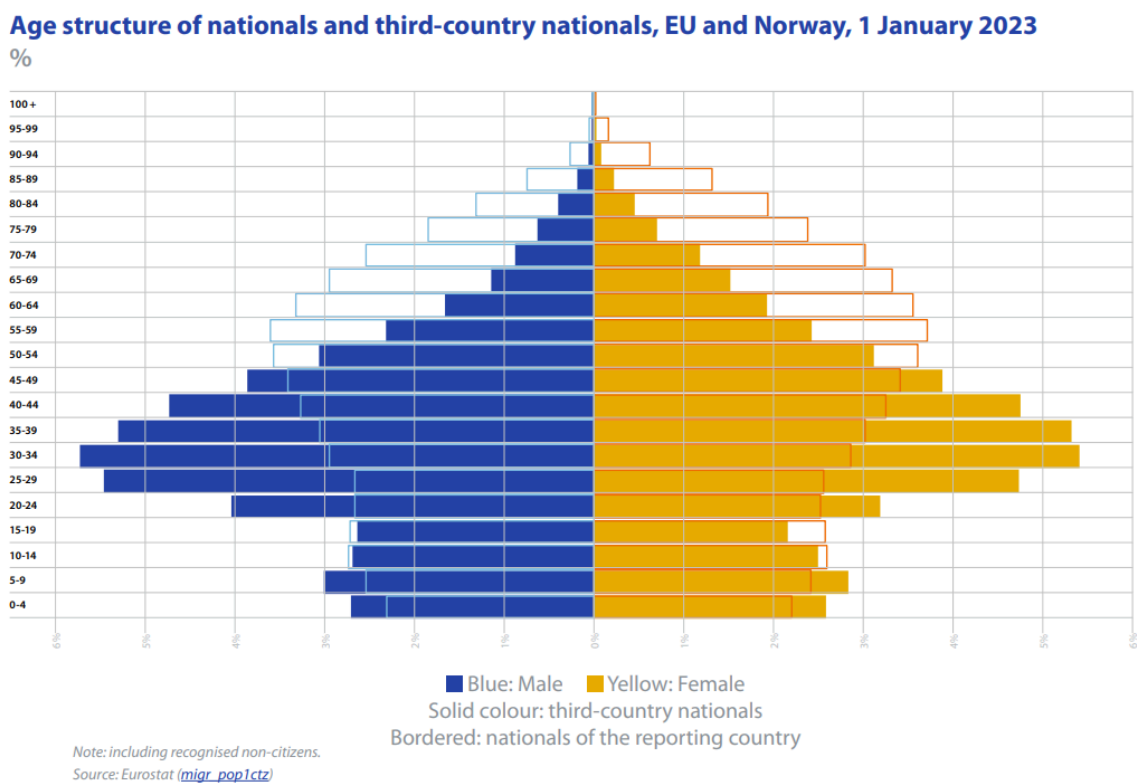
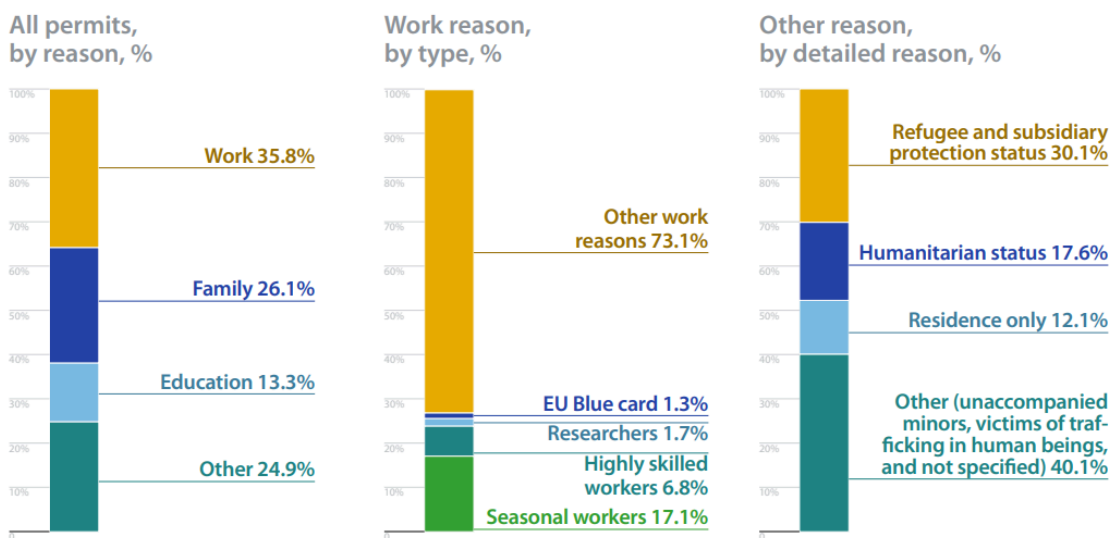


Figure 1.

Having in mind the statistics regarding the age of third-country nationals in the EU, it is important to highlight that such individuals must provide a specific reason to be granted permission to stay, which most often falls in the categories of work, education, family

reunification, and seeking asylum/protection. As presented in the first column of *Figure 2* below, from the *Annual Report on Migration and Asylum*, work is the main reason for non-EU citizens to reside in the EU in 2023 - 35.8%. Moreover, apart from family and education, the category “other” which holds 24.9% mostly covers vulnerable groups such as refugees, people with humanitarian status, etc., which is a group that will potentially merge into the workforce of the EU. However, this research concentrates solely on the long-term residents in the EU which must provide proof of means in order to receive such a status.

First residence permits issued, distribution by reason or type, EU and Norway, 2022



Source: Eurostat ([migr_resfirst](#), [migr_resocc](#) and [migr_resoth](#))

Figure 2.

Furthermore, according to the *Migrants and Welfare Dependency: Evidence from the EU Report* published in 2019, “migrants contribute more to society than they take away. Migrants make a greater fiscal contribution, especially when they are young and integrated into the labour market, while family and elderly migrants, as well as refugees, tend to be an economic burden” (Conte, A. & Mazza J., 2019: 9). However, as *Figure 1* presents, migrants in non-working age (65+) are a significantly lower percentage compared to the third country nationals in working age. It can even be argued that working migrants are helping to alleviate the so-called “economic burden” associated with the aging population in the EU.

5.2. Existing Opportunities for Political Participation of Third-country Residents

The EU and its Member States do have some degree of allowing political participation opportunities for third-country long-term residents. Some examples include the right to vote in local national elections after meeting national residency requirements. In Estonia for example, “citizens of countries outside the European Union and stateless persons residing in Estonia on a residence permit of a long-term resident or with the right of residence can vote in municipal council elections but cannot stand as a candidate for the council” (Valimised, 2024).

Additionally, various EU Initiatives, Non-Governmental Organizations, Networks, etc., work on migrant inclusion, rights, and participation within the Union’s society. One example is the European Migration Network (EMN) advocating for extending rights for migrants (including third-country nationals) at the EU level. One of their latest informs of March 26, 2024 was regarding the “Digitalisation of identity documents and residence permits issued to third-country nationals” (EMN, 2024).

Another example is the Migration Policy Group (MPG) - an independent Think Tank dedicated to strategic thinking and acting on equality and mobility, focusing on integrating immigrants and ethnic minorities. In April 2024, they published a policy brief on *How to foster social cohesion and positive attitudes towards the integration of migrants at the local level? Key challenges and policy options* exploring the levels of integration practices concerning refugees and local integration policies targeted to third-country nationals within Europe. The brief highlights that “there is still very limited policy development regarding migrant political participation, intercultural communication and antidiscrimination” (Irastorza, et al. 2024: 7).

The debate for including migrants in national and EU politics does exist and EU institutions have in fact been discussing to what extent can and should such opportunities be provided. In 1999, a *Political and Social Participation of Immigrants Through Consultative Bodies* report suggested the participation of immigrants in public life, focusing on political decision-making bodies in France and Switzerland. The report emphasizes the fact that “immigrants, as citizens of another State or as adherents to a traditionally non-European religion or cultural group, were not at all involved in decision-making, or only marginally, even when the decisions had an immediate effect on themselves” (Entzinger, 1999: 20). Having this in mind, this research argues that it is rather urgent to consider the need for the Union to include such

people, being held at the periphery of EU decision making, despite them being actively involved in the social, economic, cultural, and moral life of the Union.

5.3. European Elections and the Necessity of Voting in the EU

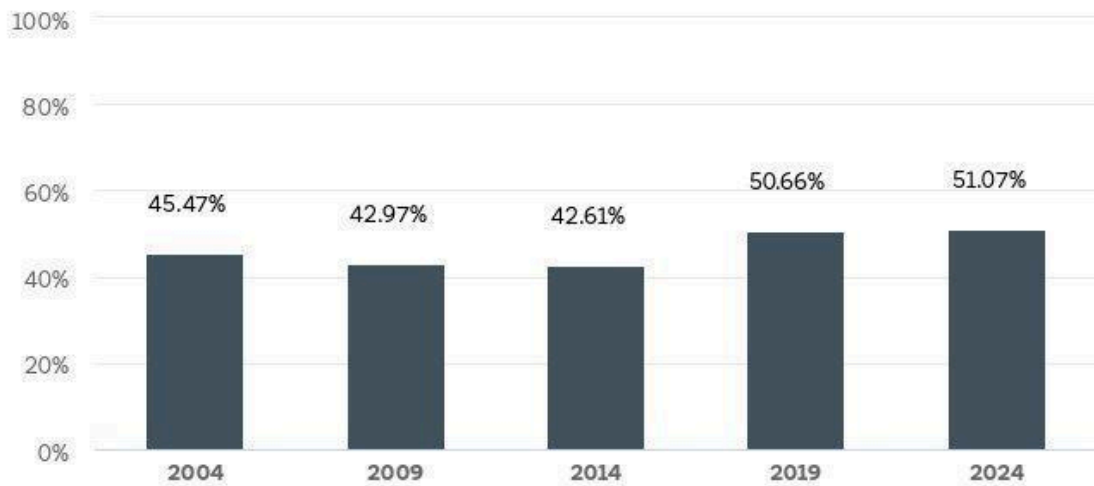
The European elections, very similar to any national elections in the EU Member States, are held every five years in order to select the Members of the European Parliament (MEPs). Each Member State is responsible for holding and promoting the elections to their citizens, showcasing their own national parties and representatives who would then have the potential to become MEPs. One interesting aspect regarding European elections is that the citizens of voting age in the EU can vote in the elections, even if they reside in a different Member State. Furthermore, they are allowed to vote for their national representatives, or for the representatives in the country they currently reside in. This right is additionally highly simplified and accessible as explained on the official *YourEurope* website - “in some EU countries, you are automatically added to the electoral roll once you register your residence” (YourEurope, 2024).

How is this relevant to this research? These elections determine the composition of the European Parliament, which plays a key role in EU legislation and policy-making, and results in all decisions on an EU level, having an impact on Member States, that can affect third-country permanent residents (including any other non-EU citizens residing in the Union). The process is exceptionally simple for EU citizens to have the freedom to move and reside in any EU state freely, however, even this has not significantly improved election turnouts for the past five elections that happened so far in the 21st Century.

In the elections during the particular mentioned period, despite the fact that many new countries and millions of electorates have been periodically joining the EU, the voting rates have not significantly improved or changed. In *Figure 3.*, provided by the official European Parliament website, we can see that between 2004 and 2009 there was a drop from 45.47% to 42.97% in voting turnout even though in the period between the two elections, both Romania and Bulgaria (with a combined population at that time around 27 million EU citizens) have joined the Union and have cast their vote.

Turnout by year

Provisional results



Source: Provided by Verian for the European Parliament

*Figure 3.*

The latest 2024 European elections have been arguably the most important of this century so far, happening in the midst of global conflicts, migration and refugee waves, economic crises, and being the first elections in the post-COVID-19 period. However, despite all those polycrisis, the EU and its Members were unable to attract a significant number of voters with 51.07% as shown in *Figure 1*. Furthermore, based on the European Parliament's official webpage, some record lows were hit as for example in Croatia with 21.35% of voter turnout having a minority of voters to decide for the whole Croatian EU citizens and influencing the political affiliation of MEPs (European Parliament, European results, 2024).

In the introduction section of this research it was underlined that as of the 11th of April 2024, a total of 27.3 million non-EU citizens were residing in the EU representing 6% of the 27-nation bloc inhabitants (European Commission, 2024). Furthermore, "in 2022, 9.93 million non-EU citizens were employed in the EU labor market, out of 193.5 million persons aged from 20 to 64, corresponding to 5.1% of the total" (European Commission, 2023). It can not be speculated how many of those non-EU citizens have a long-term resident permit, however, even if it is half of that, that is still quite a significant number of potential European

voters. Furthermore, these residents would not hypothetically contribute as pure numbers, but as fundamental voters in the multicultural European Union contributing to its political pluralism.

“Immigration raises a range of important human rights questions and that thinking about immigration can challenge some of the familiar categories that people use in talking about human rights” (Carens, 2013: 4). One such question that this research puts forward is whether having only citizens of Member States as EU voters is corresponding to the realities of the Union? The complicated circumstances of migration, fundamental human rights, residence rights, and the global world market, put forward a reconsideration of the traditional framework of state membership.

6. Proposal of Solutions

It has been discussed in this research that “once people have been settled for an extended period, they are morally entitled to the same civil, economic, and social rights as citizens and they should be subject to the same legal duties” (Carens, 2013: 89). Proof that third-country residents and migrants should be more included in society can be seen in some local policies and regulations put into action in different states. One example has already been mentioned in this thesis - the case of Estonia allowing third-country nationals and stateless people to vote in local elections. Similarly to the recognition of the migrant global context on the local level combined with local political action, it can be argued that direct democratic participation can be considered on an EU level.

Another interesting policy regarding third-country nationals put into action in some Member States is the so-called *citizenship by descent*, meaning that “some countries grant citizenship by descent based on proof that your ancestors were citizens of that country” (Baranova, 2024). Some of the examples in the EU include Croatia and Bulgaria, countries that would not otherwise allow dual citizenship, however, have made a compromise policy tied solely to proof of ethnic belonging. Both countries, being at the top of the fastest-shrinking countries in the EU (and Bulgaria being the fastest depopulating country in the world), have taken such measures to work against the depopulation trend.

In this regard, some theories have coined another dual citizenship of a sort concept - postcolonial citizenship/reparation. In the Article *Migration as Decolonization*, E. Tendayi

Achieme argues “that Third World persons are entitled to a form of First World citizenship as a matter of corrective, distributive justice. I emphasize citizenship here as primarily remedial rather than fully reparatory” (Achieme, 2019: 1553). This is quite a different solution from the ethnic/national proof of previous belonging as outlined in the prior paragraph, yet similar in the sense of moral obligation for a somewhat compensatory mechanism. Putting in action such a citizenship opportunity can pose a threat such as over-immigration and uncontrollable global resettlement. However, this theory is proof of the pressing matter of dealing with the colonial past of the Western World, including that of Europe, the migrant waves the continent faces, and the necessity of rethinking the categories of citizenship and residency within the multicultural European Union.

Other local solutions dealing with minorities within Member State societies can be found in ethnic/minority political parties. Many multicultural EU countries have found solutions in forming minority parties as a remedy for internal potential or past tensions. One example is the *Movement for Rights and Freedoms* political party in Bulgaria that represents the Muslim community and more specifically the Turkish minority in the country. Despite the fact that this is a disputed state party in the current context of Bulgaria, “the Movement for Rights and Freedoms, which defends the interests of the Turkish minority, plays a pivotal role, alternately supporting the Right and the Left” (Todorov, 2010: 5). In the 1990s this party played a crucial role in the anti-Communist democratic formation of the country contributing with its vote, that similarly to the percentage of the third-country residents in the EU, of 6%. That was then the necessary percentage for the party to have MPs in the first post-Communist government of Bulgaria.

This minority party solution can serve as a concept/idea for such migrant organizations within the European Parliament itself - a European Migrants Party. A further far-stretch example, however, illustrating the practical inclusion of non-national affiliation groups in international structures, is the Refugee Olympic Team at the Olympics. Facing the contemporary realities of refugees, minorities and migrants consisting of millions of people, a sense of empathy, creativity and flexibility on both community and political level are more than necessary. “Rather than seeing this situation as undermining democratic sovereignty, we can view it as promising the emergence of new political configurations and new forms of agency, inspired by the interdependence - never frictionless but very promising - of the local, the national, and the global” (Benhabib, 2006: 74).

“Every claim about human rights is subject to the objection that it sets moral limits to state sovereignty and democratic self-determination. But the whole point of human rights talk is to assert that some exercises of state power are morally wrong” (Carens, 2013: 7). Keeping third-country nationals who are unable or unwilling to obtain a Member State citizenship not only harms their full participation in EU’s society in decision-making but risks leaving millions of people politically voiceless. As this research has set forward, an EU citizenship of its own kind can compensate for the lack of third-country citizens’ rights to vote in national political elections of the Member States, but will allow them to express their political ground on an EU level adding the deserved dignity of direct political participation.

7. Conclusion

The world witnesses escalations in armed conflicts, human rights violations, economic crises, and political instabilities, and the European Union stands as one of the most desirable and safe destinations for individuals coming from such states. This situation presents a unique opportunity not only for the migrating individuals seeking refuge or better opportunities but also for the EU itself, as it could benefit from the contributions of these residents not only economically, demographically, and culturally, but can also by improving the democratic pluralism within the European elections. Despite the EU’s strong commitment to human rights and democratic values, there remains a critical gap in how these principles can or should be further applied, particularly concerning the political rights of long-term residents.

The research conducted in this thesis highlights that, while the EU has taken significant actions in promoting human dignity, freedom, and democracy, the exclusion of long-term residents from voting rights challenges the consistency of its human rights framework outlined in the ECHR and CFR. Granting voting rights to these residents is not merely a matter of policy but also a fundamental democratic principle that aligns with the EU’s founding values. The findings suggest that the current framework, which restricts voting rights solely to citizens of the Union’s Member States, is contradictory to the very democratic ideals that the EU seeks to uphold and promote.

The contribution of this research is in the understanding of how the inclusion of long-term residents in the electoral process of the European elections could enhance the integration, economic, and democratic fabric of the EU. The thesis argues that extending voting rights

within the Union to these individuals would not only be a step towards fulfilling the Geneva and EU human rights obligations but also a practical measure to foster a more inclusive, cohesive, and resilient society. As outlined by Carens, “residence makes a person a member of society, and that has implications for the legal rights a person should have” (Carens, 2013: 14). By recognizing long-term residents as integral members of EU’s society, the Union could take a significant step toward ensuring that its democratic processes are truly representative.

Nevertheless, the study acknowledges its limitations, particularly in offering practical solutions for integrating third-country long-term residents into the European voting process. While this thesis presents arguments for the inclusion of these residents in the democratic process, the lack of concrete policy proposals or mechanisms to achieve this goal remains a challenge. Future research could address this gap by exploring potential pathways for granting European election voting rights to long-term residents, as well as examining the broader implications of such a shift in EU governance and policy-making.

“Human rights set minimum standards that states are morally obligated to respect, but there may be vastly different laws and policies that compatible with these minimum standards” (Carens, 2013: 8). This research tried to prove the hypothesis that the EU is hindering permanent residents’ voting and democratic participation rights, however, aimed to further explore the Union’s opportunity and capacity to rethink its political structures to better align with its human rights commitments. By extending voting rights to long-term residents, the EU could lead by example in promoting a more inclusive democratic process that reflects the realities of its diverse population. This thesis argues that, in the face of increasing global migration and humanitarian crises, and the challenges that come with it, the EU must reconsider its approach to political participation to ensure that all legal long-term residents, regardless of nationality, have a voice in shaping the future of the Union.

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Table of Illustrations

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Summary

While the world is facing rising conflicts, displacement and migration, Europe is facing a demographic crisis with aging populations and declining birth rates. To address this, the EU and its Member States have considered increasing immigration but have largely neglected the political participation of the people who stay long enough to obtain long-term residency. As the non-EU population is growing in numbers, these individuals currently lack the opportunity for direct political participation and voting rights in European elections, even with a long-term residency status.

This research focuses on the political rights of long-term non-EU residents in the Union. It argues that the current system, which limits voting rights solely to EU citizens, is inconsistent with the EU's commitment to human rights and democracy. The study aims to examine the potential benefits of extending voting rights to long-term residents and challenges the concept that such rights should be exclusive to EU Member State citizens.

The research finds that including long-term residents in the electoral process could enhance integration, economic growth, and democratic values within the Union. By recognizing these individuals as full members of the society, the EU can create a more inclusive and representative democracy. However, the study acknowledges the need for further research to develop concrete proposals for implementing such a change.

The thesis concludes that the EU should reconsider its approach to political participation to better align with the demands of the current global order and its human rights commitments. Granting voting rights to long-term residents would not only be a step towards a more just and equal society but also a practical measure to address the challenges posed by demographic change and increasing migration.

Key Words: human rights, voting, political participation, European Union