

Voting at presidential elections by citizens resident outside the State

Options paper

**Prepared by the Department of Housing, Planning, Community and Local Government and
the Department of Foreign Affairs and Trade**

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Section 1: Background and Executive Summary

1.1 Background

The Convention on the Constitution, in its Fifth Report¹, recommended that the constitution be amended to provide for citizens resident outside the State, including in Northern Ireland, to have the right to vote at presidential elections.

When asked the question, “Should citizens resident outside the State have the right to vote in presidential elections?”, 78% of the Members of the Constitutional Convention answered Yes; 21% answered No; and 1% were undecided.

When asked, “Should citizens resident in Northern Ireland should have the right to vote in presidential elections?”, 73% of the Members of the Convention answered Yes; 20% answered No; and 7% were undecided.

When asked to choose one of a number of options as to which citizens living outside the island of Ireland should have the right to vote in presidential elections, the members of the Convention voted as follows:

All citizens resident outside the island of Ireland	36%
Just citizens who have lived in the “Republic of Ireland”	26%
Just citizens who have lived in “Republic of Ireland” as adults and who have left for a period of time (see below)	27%
Undecided/no opinion	11%

Members of the Convention were asked if there should be a time limit on how long citizens resident outside of the island of Ireland can have a vote and, if so, what that time limit should be:

No time limit	Voting rights only for 5 years abroad or less	10 years	15 years	20 years	25 years
38%	14%	17%	20%	6%	4%

¹ [Convention on the Constitution](#)

The Government considered the Convention report in February 2015 and decided that it would be necessary to analyse the full range of policy, legal and practical issues arising before any decision could be made on the holding of a referendum on the question of extending the franchise in presidential elections to citizens resident outside the State. These issues include the potentially very large number of citizens to whom the franchise might be extended and what the impact might be, both on the population of the State and with regard to the administrative and cost implications. They also include the arrangements that would be required for the registration of new voters, the method of voting and the security of the ballot. The Government asked the Minister² for the Environment, Community and Local Government, in co-operation with the Minister for Foreign Affairs and Trade and the Minister of State for Diaspora Affairs, to analyse these issues and to report back to the Government in due course. The Government's approach in this matter was reiterated in [Global Irish - Ireland's Diaspora Policy](#) launched in March 2015.

This paper examines the issues and outlines options for advancing the proposal to extend the right to vote at presidential elections to citizens resident outside the State.

1.2 Executive Summary

If the franchise at presidential elections is to be extended beyond citizens resident in the State key questions for decision are:

- ***Which citizens outside the State should have the right to vote at presidential elections?***
- ***Should all citizens have the right?***
- ***Should the right be limited to citizens who have previously resided in the State, or to citizens who were previously registered to vote in the State, or to citizens who have been absent for a certain number of years, or to citizens born in the State, or to citizens born on the island of Ireland?***

These questions are explored in section 2 of this paper. A decision on which citizens outside the State should have the right to vote at presidential elections must be made before a proposal for

² Now the Minister for Housing, Planning, Community and Local Government

amendment of the Constitution, in a Constitution Amendment Bill, can be put before the Oireachtas and then, if passed, before the people in a referendum.

In deciding on the question to be put to the Irish people in a referendum there are a number of legal, policy and logistical considerations to be borne in mind.

Legal

The text of the Constitutional amendment needs to be explicit as to which citizens resident outside the State will have the right to vote. If the right to vote is to be limited to a particular category or categories of citizens only, express provision for that must be provided in the Constitution.

If the franchise is to be extended to some or all citizens resident outside the State, it may also be necessary to consider proposing amendments to other Articles in the Constitution relating to presidential elections. While the 60 day timescale for holding a presidential election is manageable at present, and has been for the 13 presidential elections held to date, consideration should be given to extending that to 70 or even 80 days if real opportunity is to be given to citizens resident outside the State to participate. Out of country voting takes more time than in country voting (see section 5.3).

If a proposal to extend the right to vote at presidential elections to citizens resident outside the State is passed at a referendum, it will be necessary to amend the Electoral Acts to provide for the registration of new voters and for changes to the administration of presidential elections.

Policy

In relation to Northern Ireland, specific consideration must be given to respect for the overall balance of the settlement underpinned by the Good Friday Agreement, in particular the right to be British or Irish or both and to be accepted as such. The unique situation of Irish citizens in the North, and the fact that almost all those born in Northern Ireland are entitled to Irish citizenship, make it essential that any options considered in relation to the extension of the franchise include this group.

In developing policy in relation to the extension of the right to vote in presidential elections, there is also a need to take into consideration other identified Government priorities in the

franchise area, notably in relation to Seanad reform and the establishment of an Electoral Commission, and to take into consideration the Government's Diaspora Policy.

Regard must be had also to other recommendations and proposals for extending voting rights. These include the [EU Commission Recommendation in 2014](#) that citizens resident in other EU Member States exercising their right to free movement should not be disenfranchised at national elections; the [European Parliament 2015 resolution on the reform of the electoral law of the EU](#) which proposes a new right to vote at European elections for citizens resident in third countries; and campaigns for extending voting rights at Dáil elections and referendums such as that of [VotingRights.ie](#) - a group co-founded by Noreen Bowden, Kevin O'Sullivan and Billy Lawless.

The discussion around voting rights for citizens outside the State often leads to comparisons with the position of other countries, and, in particular, as to the rules and methods in place where countries have extended the franchise in this manner. However, while such comparisons are offered in Appendix 1 and may be of interest for background purposes, it is worth noting that many such countries have very different frameworks regarding the entitlement to citizenship for those born abroad and around the registration of citizens abroad.

Logistical

The extension of the franchise to all citizens resident outside the State or to a specified category of citizens (options are outlined in section 2) will give rise to logistical challenges in relation to the registration of voters, the method of voting and, the administration of presidential elections. With sufficient resources, all of these challenges could be met over time.

The development of a modernised register of electors that is accurate and comprehensive but, at the same time, not unduly bureaucratic, and which encourages those who have the right to vote to register, will be the first requirement for implementation of any proposal to extend the right to vote at presidential elections to citizens resident outside the State. This is a significant task that could probably be undertaken over a period of 3 years. Subject to the prioritisation of the task, work could start on this now to facilitate any future policy decisions made in relation to extending the franchise at Irish elections. Various options can be considered in respect of registration, for example citizens born in the State, or associated with a place in the State by descent or by previous residence in the case of naturalised citizens, could be registered in local

registration areas. Registration of citizens in and from Northern Ireland would likely require the allocation of that function to a selected body.

The current systems in place for the administration of presidential elections (taking the poll and counting the votes) could be built upon to accommodate potentially large numbers of citizens resident outside the State. Voters resident outside the island of Ireland could, for example, be associated with constituencies in the State. For the administration of voting by citizens resident in Northern Ireland and citizens born in Northern Ireland resident outside the island of Ireland new and separate arrangements would need to be made; for example, a standalone constituency could be considered.

Postal voting would be the preferred option for voting by citizens resident outside the State at the present time. Voting at embassies is not a practical proposal for a number of reasons set out in this paper (section 4.3). E-voting may be a future solution but current E-voting systems are not universally accepted as secure.

The extension of the right to vote at presidential elections to citizens resident outside the State will give rise to additional costs, as set out in section 6 of this paper.

Section 2: Options for consideration in relation to the proposal that voting rights at presidential elections be extended to citizens resident outside the State

2.1 Context

Constitution of Ireland

Article 16.2.i of the Constitution provides for the right of citizens to vote at Dáil elections. Article 12.2.2° of the constitution provides that “*Every citizen who has the right to vote at an election for members of Dáil Éireann shall have the right to vote at an election for President*”. An amendment of the Constitution will be necessary to give effect to any proposal to extend the right to vote at presidential elections to citizens resident outside the State. The amendment would need to remove the link between presidential and Dáil voters either by separating the right to vote for citizens under Article 12 from that in Article 16 and replacing the existing provision with a separate stand-alone provision for the right to vote at presidential elections, or by adding to the existing provision in Article 12 to provide for a right to vote for citizens other than those entitled to vote at Dáil elections.

Any proposal to extend the right to vote at presidential elections only to particular categories of citizens resident outside the State (e.g. passport holders, citizens previously resident or registered in the State or citizens born on the island of Ireland) rather than to all citizens resident outside the State, will require an amendment to the Constitution that is explicit on the categories of citizens that will have the right to vote. The right to vote could not be given to all citizens in the constitution and limited then by way of legislative regulation to a particular category of citizens.

Electoral law

A summary table outlining entitlement to vote at elections and referendums is at Appendix 3. At present, every person whose name is on the register of presidential electors for a constituency is entitled to vote at a presidential election in that constituency (section 111 of the Electoral Act 1992, as applied to presidential elections by section 44 of the presidential Elections Act 1993). To be registered as a presidential elector in a constituency a person must be a citizen of Ireland, aged 18 or over, and ordinarily resident in the constituency (section 9 of the Electoral Act 1992). To give practical, operational effect to any new right conferred by the Constitution it would be necessary to amend the Presidential Elections Act 1993 and the

Electoral Act 1992 to provide for the registration of presidential electors resident outside the State and the means by which their votes would be cast and counted. It would also be necessary to amend those sections of the Referendum Act 1994 which provide for the register of presidential electors to be the register of electors for a referendum.

Recommendations of the Convention on the Constitution

As noted in the Chairman’s introduction to the Fifth Report of the Convention on the Constitution, “a clear majority of Convention members favoured a change to the Constitution to give citizens resident outside the State the right to vote in presidential elections”. 78% of members agreed that citizens resident outside the State should have the right to vote in presidential elections; 73% agreed that citizens resident in Northern Ireland should have that right.

In response to the question, “Which citizens living outside the island of Ireland should have the right to vote in presidential elections?”, 36% said all citizens, 26% said just citizens who have lived in the “Republic of Ireland”, 27% said just citizens who have lived in the “Republic of Ireland” as adults and who have left for a period of time.’

In response to the question, “If there should be a time limit on how long citizens resident outside the island of Ireland can have a vote, what should that be?”, 38% said no time limit, 14% said 5 years or less, 17% said 10 years, 20% said 15 years, 6% said 20 years and, 4% said 25 years.

The numbers involved

The population of the State is some 4.76 million³, of which some 3.2 million are registered as presidential electors. There is no official authoritative figure as to the specific number of Irish citizens resident outside the State, as there is no legal requirement for citizens resident outside the State to formally register with the Irish authorities. The Irish diaspora, which includes those who identify themselves as having ancestral links to Ireland but who would have no current claim to citizenship, is said to be in the region of 70 million people worldwide. The number of people who would have a claim to Irish citizenship is a mere fraction of that figure. The number of actual Irish citizens currently resident outside the State is smaller still.

³ Census 2016 Preliminary results gives 4,757,976

The Department of Foreign Affairs and Trade estimate conservatively that some 1.73 million citizens are currently resident outside the State. Adding this to the 1.87⁴ million potential citizens in Northern Ireland gives a conservative estimate of 3.6 million citizens⁵ resident outside the State. Some 984,455 Irish passports were issued by the Department of Foreign Affairs in the period 2006 - 2016 from offices outside the State.

The total electorate in Northern Ireland (the vast majority of whom are entitled to Irish citizenship) currently stands at 1,238,605⁶. It can be anticipated that the uptake on voting in presidential elections could be very high in Northern Ireland.

2.2 Which citizens outside the State should have the right to vote at presidential elections?

2.2.1 All citizens resident outside the State

The following points support the view that the right to vote at presidential elections should be extended to all citizens resident outside the State -

- It would give effect to the main recommendation of the Convention on the Constitution (i.e. extend the right to vote at presidential elections to citizens resident outside the State).
- It would provide for equal treatment of all citizens of Ireland in the matter of the right to vote at presidential elections.
- The vote of the 3.2 million presidential electors in the State is unlikely to be ‘swamped’ by the vote of those age 18 and over among the 3.6 million citizens resident outside the State if overseas voting trends in other countries are replicated in an Irish presidential election. For example, ‘the total number of overseas electors on the Great Britain registers on 1

⁴ The population is estimated at 1,866,990 by the [Northern Ireland Research and Statistics Agency](#) on 23 November 2016. Census 2011 for Northern Ireland gives 1,810,863

⁵ Only those age 18 and over would be entitled to register to vote

⁶ Total electorate estimated on 1 February 2017 by the [Electoral Office for Northern Ireland](#)

December 2016 was 263,902⁷, out of an estimated overseas population of some 5m⁸; in the Canadian 2015 general election 15,603 were registered to vote from overseas out of an overseas population of 2m and some 11,000 voted⁹. For the Australian federal elections in 2013 some 455,000 were registered to vote out of an overseas population of 1m, but less than 74,000 voted¹⁰. The trend of low participation rates in other States suggests that the number of Irish citizens who may register or vote at a future presidential election could be very significantly lower than those age 18 and over among the estimated 3.6 million citizens resident outside the State that might be eligible to register should the vote be extended to all citizens. However, it is likely that the uptake on voting in presidential elections could be very high in Northern Ireland.

- It would reflect both the Government’s policy of deepening engagement with Irish citizens abroad, as set down in the 2015 Diaspora Policy, and the inclusivity of Government policy over many years in relation to citizens born outside the State.

The following points support the view that the right to vote at presidential elections should not be extended to all citizens –

- The additional costs involved will be greatest in the case of extending the right to vote to all citizens. Extending the right to vote at presidential elections to citizens resident outside the State will give rise to additional costs irrespective of whether the right is extended to all citizens or to some categories of citizens only. However, once the initial costs of putting in place a voter registration system have been met, the cost of each election held after that will increase in line with the number of registered voters involved. Each additional registered voter represents an additional cost in terms of issuing, processing and counting their ballot papers and in issuing ‘freepost’ literature from candidates.

⁷ [UK Electoral Commission report on voter registration - March 2017](#);

⁸ [UK House of Commons briefing paper on Overseas Voters - October 2016](#) ; see also the Fourth Report (Chapter 5) of the UK House of Commons Political and Constitutional Reform Committee (November 2014)

⁹ [Elections Canada report on the 42nd general election of 19 October 2015](#)

¹⁰ [Australian Electoral Commission - 2013 federal elections statistics](#)

- In addition, irrespective of the method of voting that would ultimately be put in place, it is likely that some Irish Embassies and Consulates abroad would receive a significant number of queries at each stage of the registration and voting process, which may have additional resource implications for the Government. In the Northern Ireland context, the Department of Foreign Affairs and Trade offices in Armagh and Belfast are Secretariats to institutions of the Good Friday Agreement – the North South Ministerial Council and British Irish Intergovernmental Conference, respectively – and have no consular function.
- While it is highly unlikely, given trends internationally there is the possibility, in theory, that the electorate outside the State may exceed the electorate within the State at some future presidential election. The estimated 3.6 million citizens resident outside the State has to be viewed in the context of the 3.2 million people on the current (2017/2018) register of presidential electors, in a population of 4.8¹¹ million.

2.2.2 All citizens on the island of Ireland and all citizens outside the island of Ireland for a period of time who have lived in the State

The following points support the view that the right to vote at presidential elections should be extended to all citizens on the island of Ireland and to citizens resident outside the island of Ireland who had lived in the State and who were absent from the State no longer than a period of time to be determined –

- It would implement the full recommendations of the Convention on the Constitution. 26% of Convention members considered that the franchise should only be extended to citizens living outside the island of Ireland who have lived in the “Republic of Ireland”; 27% considered that the franchise should only be extended to citizens who have lived in the “Republic of Ireland” as adults and who have left for a period of time.
- As indicated in section 2.2.1, extending the right to vote to particular categories of citizens who are resident outside the State, rather than all citizens, would result in lower additional costs for each election held because of the number of additional voters would be lower.

¹¹ Census 2016 preliminary results

The following points support the view that the right to vote at presidential elections for citizens resident outside the island should not be limited to those resident outside the island of Ireland for a period of time who have lived in the State –

- It would exclude citizens born outside the island of Ireland who have never lived in the State and therefore would not reflect the inclusive policy of engagement with the global Irish that has been taken by successive Governments.
- Among those people excluded could be citizens who, though not born on the island of Ireland and never having lived here, consider themselves to be only Irish and do not hold any other passport.
- It would exclude citizens born in Northern Ireland now resident outside the island who have never lived in the State.
- The imposition of a period of absence from the State as one of the criteria for eligibility may not be workable as under existing arrangements, we do not formally track the movement of our citizens into and out of the State. Mindful of the importance of the integrity of the register and any election, this option could entail significant additional resource implications, increasing the administrative and verification burden associated with registration as some system of oversight would likely be required to verify that the residency requirement had been fulfilled, even where the onus would be on the citizens themselves to provide proof of previous residence in the State.
- Granting the right to some but not all citizens may be viewed as inequitable.

Even if we could formally track the movement of our citizens, the following other factors should be considered -

- (a) imposing a time limit on the right to vote of citizens resident outside the island of Ireland who had lived in the State at some stage would create a difference in treatment between such citizens and those resident in Northern Ireland who, although resident outside the State, would not be subject to any time limit on their right to vote;

- (b) a move away from this approach has been noted – for example, the UK is preparing¹² to remove the requirement, in the case of their citizens resident outside the State, to be no longer than 15 years absent from the State in order to qualify to vote. In Germany, citizens resident outside the State can establish eligibility to vote if (i) within the previous 25 years they have lived in Germany without interruption for at least 3 months or otherwise have had habitual residence there or (ii) have acquired a personal and direct familiarity with the political conditions in Germany and be affected by them. The Australian limit of 6 years overseas can be extended on an annual basis;
- (c) there is no ‘consensus’ or apparent ‘right’ number of years of absence from the State in other jurisdictions that continue to apply this requirement in their electoral laws – for example, while you can be absent from Germany as described at (b) above for up to 25 years, the position in Australia is that registered electors who leave Australia and intend to return within 6 years can apply to be registered as overseas electors; and
- (d) neither was there any consensus on this point in the Convention on the Constitution, where different preferences ranging from no time limit at all to time limits of 5, 10, 15, 20 and 25 years were recommended by members.

2.2.3 All citizens on the island of Ireland and all citizens who have left the island in the previous 15 or 20 years.

The following points support the view that the right to vote at presidential elections should be extended to all citizens on the island of Ireland and to citizens who left the island of Ireland in the previous 15 or 20 years -

- It could be seen to reflect a view held by some that the right to vote should be extended to those citizens who have had to move away from home in more recent years, primarily because of economic necessity.
- Because the citizens involved have only moved away from home in more recent years, the option could be seen as targeting those among the diaspora who continue to have the closest contact with Ireland and knowledge of/interest in Irish affairs.

¹² UK Cabinet Office October 2016 [A democracy that works for everyone - British citizens overseas](#)

- As indicated in section 2.2.1, extending the right to vote to particular categories of citizens who are resident outside the State, rather than all citizens, could result in lower additional costs for each election held because the number of additional voters would likely be lower.

The following points support the view that the right to vote at presidential elections for citizens resident outside the island should not be limited to those who left the island of Ireland in the previous 15 to 20 years-

- Granting the right to some but not all citizens may be viewed as inequitable.
- This approach would not be in line with the recommendations of the Convention on the Constitution. Only 27% of Convention members considered that just citizens who have lived in the “Republic of Ireland” and who have left for a period of time should have the right to vote.
- The imposition of a period of absence from the island of Ireland as one of the criteria for eligibility may not be workable in so far as absence from the State is concerned as, under existing arrangements, we do not formally track the movement of our citizens into and out of the State. Mindful of the importance of the integrity of the register and any election, this option could entail significant additional resource implications, increasing the administrative and verification burden associated with registration as some system of oversight would likely be required to verify that the residency requirement had been fulfilled, even where the onus would be on the citizens themselves to provide proof of previous residence in the State.
- The points at section 2.2.2 (b) to (d) above would also be relevant.

2.2.4 All citizens on the island of Ireland, and all citizens resident outside the island who hold a valid Irish passport

The following points support the view that the right to vote at presidential elections should be extended to all citizens on the island of Ireland and all citizens resident outside the island who are passport holders -

- As citizenship would be the key criterion for the right to vote and as possession of a passport is clear evidence of citizenship, extending the right to passport holders resident outside the island has an appealing simplicity about it.
- This would give effect to the main recommendation of the Convention on the Constitution albeit with the qualification of a passport being required for those resident outside the island of Ireland. Having said that, all citizens are entitled to an Irish passport so the passport requirement, while it might impose a cost on some, would not absolutely disenfranchise any citizen.
- As a passport is required to travel, other than to the UK, extending the right to vote only to those citizens resident outside the island of Ireland who are passport holders would probably encompass most citizens who have moved from the island of Ireland; citizens without a passport or whose passport has expired would be in a position to acquire one.

The following points support the view that the right to vote at presidential elections of citizens resident outside the island of Ireland should not be limited to passport holders -

- It could be seen as inappropriate to ‘equate’ citizenship with holding a valid passport as at any time there are large numbers of Irish citizens at home and abroad who do not have a valid passport. Although it is evidence of citizenship, a passport is primarily a travel document, not a declaration of citizenship, and to link it directly and solely to an electoral right based on citizenship is not in keeping with the primary purpose or function of a passport.
- Confining the right to passport holders would deny citizens who are not passport holders the right to vote at presidential elections even though they may be able to establish their citizenship in other ways, for example through a birth certificate or a Certificate of Foreign Birth Registration. This would not reflect the entirety of the inclusive policy of engagement with the global Irish that has been taken to date. However, as noted above, any citizen can become a passport holder so they would not be disenfranchised as such.
- There is a financial cost involved in obtaining a passport. While statutory provisions exist to permit the waiver of passport fees in cases of hardship, such waivers are generally associated with a need for immediate travel. Should a passport be a *prima facie* requirement for a voting right, it would neither be appropriate nor sustainable for the

Passport Service to be means testing applicants who sought a waiver of the fee to obtain a passport for voting rather than travel purposes.

- A crucial aspect in relation to Northern Ireland is the right, under the Good Friday Agreement, to be British or Irish or both and to be accepted as such. This will require a carefully calibrated approach which ensures that any extension of the franchise - which as a matter of policy must include people in Northern Ireland - does not offend against this principle if the right to vote is extended to passport holders only.
- The ‘Common Travel Area’ arrangements in place with the United Kingdom may very well mean that some citizens who have travelled to or lived in Britain have never had the need to get a passport. However, the numbers of British-based Irish citizens without passports is almost certain to diminish continuously over time, for a number of reasons: (a) it is mostly older generations who would rarely travel to Ireland (or if they did, would use transport means not requiring official identification such as passport for non-immigration-related security checks, i.e. on passenger ferries); (b) more recent generations of emigrants tend to be passport holders, in part to be able to travel beyond the UK and Ireland; and (c) the ‘Common Travel Area’ is among the issues requiring resolution in the context of the UK’s exit from the EU – while both the Irish and UK governments have resolved to retain it, ongoing uncertainty around its provisions (pending any eventual agreement on it) may cause people to acquire passports for the first time. (More widely, British citizens with potential entitlement to Irish citizenship will also seek Irish passports, with a large volume of queries received since the June 2016 referendum and further applications expected as the formal UK exit expected in 2019/2020 draws closer.)
- Passports issued to citizens over 18 expire after 10 years. If the constitutional amendment was to include provision for citizens resident outside the island of Ireland who hold a valid Irish passport to have the right to vote, the registration process would possibly need to have built into it an arrangement whereby a person’s name is removed from the register once their passport expires. Citizens resident outside the island of Ireland would find themselves needing to continually renew their passports in order to remain on the register and to retain their entitlement to vote, even if they did not wish to travel or, for dual passport holders, did not wish to use their Irish passport for travel.

- The option of confining the right to vote of citizens resident outside the island of Ireland to holders of a valid Irish passport may not have the desired effect if the motivation for doing so is to limit the numbers of citizens that may become eligible to vote. Those citizens who wish to vote will acquire a passport.
- Granting the right to some but not all citizens may be viewed as inequitable.

2.2.5 All citizens resident outside the State who were previously registered to vote in the State

The following points support the view that the right to vote at presidential elections should be extended to all citizens who were previously registered to vote in the State –

- As this option excludes citizens resident outside the State who were never registered to vote in the State, it is likely to result in significantly lower numbers having the right to vote. The additional costs arising at each election are likely therefore to be considerably less than the additional costs arising if all citizens have the right to vote.
- This option specifically targets those who were entitled to vote at one stage because they were registered but have since lost that entitlement because they left the State for work or other reasons. Under section 11(3)(a) of the Electoral Act 1992 a person shall be deemed not to have given up their ordinary place of residence if they intend to resume residence there within eighteen months. After that period has elapsed, the right to be registered lapses. These people have no entitlement to an ‘overseas’ or postal ballot. They must return home to vote.

The following points support the view that the right to vote at presidential elections should not be extended only to citizens who were previously registered to vote in the State–

- This option does not give effect to the main recommendation of the Convention on the Constitution. It introduces a limit not recommended by the Convention.
- This limit would create a difference in treatment between citizens on two counts:
 - Except for those who had previously been resident and registered in the State citizens in Northern Ireland would be excluded.

- Citizens who were born in Ireland and either left before they were 18 or didn't register before leaving would not be eligible to register while resident outside the State.
- A new register of electors comes into force annually on 15 February and there is no legal requirement to keep expired registers. While local authorities keep archival records of previous registers (mostly up to 20 years), it is considered on preliminary examination that a scheme based on access to such records would be extremely cumbersome, administratively very resource demanding and could not be guaranteed to be fully effective.
- This would not reflect the inclusive policy of engagement with the global Irish that has been taken by successive Governments.
- Granting the right to some but not all citizens may be viewed as inequitable – this may be more pronounced under this option because of the relatively low numbers that would be eligible to register to vote.

2.2.6 All citizens resident outside the State who were born on the island of Ireland

The following points support the view that the right to vote at presidential elections should be extended to all citizens resident outside the State who were born on the island of Ireland-

- As indicated in section 2.2.1, extending the right to vote to particular categories of citizens who are resident outside the State rather than all citizens would result in lower additional costs for each election held because the number of additional voters would be lower.
- It would include citizens in Northern Ireland.

The following points support the view that the right to vote at presidential elections of citizens resident outside the State should not be limited to those born on the island of Ireland -

- This option does not give effect to the main recommendation of the Convention on the Constitution. It introduces a limit not recommended by the Convention.
- It would create a difference in treatment between citizens as citizens resident outside the State who were not born on the island of Ireland would be excluded. As such it would not reflect, and could be seen as being contrary to, the inclusive policy of engagement with citizens born outside the State which has been taken by successive Governments.

- Where the rationale behind extending the right to vote to citizens outside the State is to make a generous gesture of engagement with the global Irish, to seek to limit that right in this way could be seen as counterproductive.
- Granting the right to some but not all citizens resident outside the State may be viewed as inequitable.

2.2.7 All citizens on the island and all citizens resident outside the island of Ireland who were born on the island or who have lived on the island for at least one year

The following points support the view that the right to vote at presidential elections should be extended to all citizens on the island and citizens born on the island or who have lived on the island for at least one year -

- Because the citizens involved had lived in Ireland at some stage, it could be argued that the measure is targeting those among the diaspora who would be expected to have a strong knowledge and interest in Irish affairs.
- As indicated in section 2.2.1, extending the right to vote to particular categories of citizens who are resident outside the State rather than all citizens could result in lower additional costs for each election held because the number of additional voters would likely be lower.

The following points support the view that the right to vote at presidential elections for citizens resident outside the island should not be limited to those who were born on the island or who have lived on the island for at least one year.

- It would exclude citizens born outside the island of Ireland who had not lived on the island for at least one year.
- It would not reflect the recommendations of the Convention on the Constitution. It introduces a limit not recommended by the Convention.
- Establishing that people have lived on the island for a year could be complex administratively; would it be continuous residence for a least a year? If there was a break in the continuity of the one year's residence, what circumstances would be acceptable as extenuating circumstances? Proof of residence for a year would be as wide as it is varied.

- This would not reflect the inclusive policy of engagement with the global Irish that has been taken by successive Governments.
- Granting the right to some but not all citizens may be viewed as inequitable.

2.3 Limits /restrictions in other countries on the right to vote of citizens resident outside the State

37 of the 46 European countries reviewed in 'The Right to Vote for Non-Resident Citizens in Europe'¹³, have no time limits on the right to vote of their citizens resident outside the State. In 7 countries the right to vote is limited to persons who are temporarily absent. This includes Ireland where the right to vote outside the State is restricted to diplomats and Defence Force personnel.¹⁴

In Germany, the right to vote is restricted to those resident outside the State for 25 years or less but this can be extended in certain circumstances (see Appendix 1). In the UK, the right to vote is restricted to those resident outside the State for 15 years or less. There are proposals in hand to remove this restriction (see Appendix 1).

In Canada, the right to vote of citizens resident outside the State is confined to those who have previously resided in Canada at any stage, who intend to return to Canada and who have been away for less than 5 consecutive years.

In Australia, the right to vote of citizens resident outside the State is confined to those who have left Australia in the last 3 years and who intend to return within 6 years of departure. Extensions to that 6 year period can be applied for annually.

In New Zealand, the right to vote from abroad is not limited to citizens. Anyone who has lived continuously in New Zealand for 1 year at some point in their life has the right to vote from abroad subject to a citizen having been in New Zealand at any point in the past 3 years and to a non-citizen having been in New Zealand as some point in the past year.¹⁵

¹³ [International and Comparative Law Quarterly \(October 2016\)](#)

¹⁴ Electoral Act 1992, Part II

¹⁵ [New Zealand Electoral Commission - enrol and vote overseas](#)

Section 3: Registration of voters

3.1 Context

The first requirement of any electoral system is a register of electors. The register should reflect the highest possible degree of accuracy and comprehensiveness so that the electorate can have confidence in its integrity. At the same time, the registration process should encourage voter registration by being user friendly and not unnecessarily bureaucratic. If the right to vote at presidential elections is extended to citizens resident outside the State then, irrespective of whether the right is being extended to all citizens or to some particular category or categories of citizens, the registration of those citizens will be the first requirement in giving effect to that change.

3.2 Current system of voter registration

It is the responsibility of each local authority to prepare and publish a register of electors in their area, in accordance with the Electoral Act 1992. Each year on 15 February a new register of electors comes into force. Applications for inclusion in the register of electors are paper-based and are generally completed on a household basis. Provision is made for a supplement to the register in order to give eligible voters who are not registered an opportunity to be registered in advance of an election or referendum. Supplement applications are paper based and completed on an individual rather than a household basis. Applications must be signed by a member of the Garda Síochána from the applicant's local Garda station or, in certain circumstances, by an official of the registration authority or be accompanied by a medical certificate (Electoral Act 1992, Second Schedule, Rule 14A). Such an arrangement for verification of supplement applications would not be workable for registration of citizens resident outside the State.

While the registration application process is paper based, each local authority – assisted by the Local Government Management Agency (LGMA) - maintains an electronic database of their electorate to assist them in meeting their register responsibilities (such as producing copies of the register for display and cross-checking applications for new registrations or changes in registration details).

3.3 How is registration of overseas voters organised in Australia, Canada, New Zealand and the United Kingdom.

The registration of overseas voters in Australia, New Zealand and Canada is handled by one domestic central body¹⁶. However, in some cases the embassies and consular offices provide a ‘post box’ service, where they will arrange for the onward transmission of registration applications to the central body involved. In the UK, it is the local authorities where the overseas voters concerned had been registered when they were domiciled in the UK which manage the registration of overseas voters for their area.

3.4 Options for Ireland to register citizens resident outside the State in order to vote at presidential elections.

An extension of the right to vote at presidential elections to citizens resident outside the State would require considerable modernisation of the current voter registration arrangements if an optimal approach is taken to the development of an accurate and comprehensive register and a user-friendly registration process.

Applying the models for the registration of overseas voters in Australia, Canada, New Zealand and the UK, a number of guiding principles are identifiable –

- Voter registration should continue to be managed domestically in the State rather than engaging embassies and consular offices in that role. However, embassies could play a useful role by having guidance notes and applications forms available and in advising Irish citizens locally about the registration process. Any role for Ireland’s Embassies and Consulates abroad in voter identification or witnessing would have significant resource implications in certain locations and would require additional financial and staffing resources.
- Two broad models exist for registration of voters – registration can be managed by one central body or can be assigned to existing registration authorities.

¹⁶ [Australian Electoral Commission](#), [Electoral Commission New Zealand](#), [Elections Canada](#)

- Applicants should be responsible for their own applications for registration on an individual rather than on a household basis.

In looking ahead to registration arrangements for citizens resident outside the State, consideration also needs to be given to domestic influences –

- Voter.ie is, a local authority register improvement project currently being undertaken by the Dublin local authorities in which they have developed proposals for an enhanced system of voter registration. The registration model they propose involves a focus on online registration applications being made to a centralised registration database that would be managed by one authority on behalf of all other authorities on an agency basis. The key security measure to maintain the integrity of the register, against the backdrop of their proposal to discontinue house to house verification of registration details, is use of the applicants' PPSN to verify identification prior to a person's name being added to the register. Pilot exercises on the suitability of the system are currently being carried out by the Dublin authorities in order to test the system and to iron out any difficulties before developing their proposals further.
- The Joint Oireachtas Committee on Environment, Culture and the Gaeltacht (JOC) provided views on voter registration as set out in their January 2016 report on the proposed Electoral Commission in response to the Department's earlier Consultation Paper on the Establishment of an Electoral Commission in Ireland. The JOC identified a number of key elements that should form part of any new registration initiative. These were the need for a rolling register to replace the current annualised system; applications to be made on an individual rather than on a household basis; the need for the register to be a centralised database; that PPSN be used as an identifier to enhance the integrity of the register; and that online registration should be investigated.
- The Programme for a Partnership Government states, "We believe that Ireland needs an independent electoral commission as a matter of priority" and that the Commission should "examine the voter registration process and in particular the possibility of the PPS system being used to automatically add people to the electoral register once they reach voting age".

A correlation can be drawn between the JOC recommendations on voter registration, the approach being taken in the *Voter.ie* project and the approach taken to the registration of

voters in some of the other jurisdictions examined – that is a focus on a centralised national database for the registration of voters and capability to accept on-line applications for registration.

There are identifiable benefits in having one central database for the registration of all voters rather than retaining the model of 31 separate databases that is currently in place. Having a single database would facilitate administrative simplicity, economies of scale and enhance the scope for a more accurate and comprehensive register, but there would still be a reliance on the individual responsibility of a person entitled to register to do so. The central database would continue to identify the appropriate registration authority area, constituency etc. within the database as this is essential for election administration purposes (section 5.2). It could facilitate on-line registration and be developed as a rolling register in place of the current annual cycle to the registration process. It could be done on a modular basis that would enhance existing domestic registration while catering for any future decisions made about extending the right to vote in presidential or Seanad elections or other elections to citizens outside the State including in Northern Ireland.

This national database could be equally well managed by one local registration authority acting on an agency basis for all other registration authorities or by the proposed Electoral Commission if resourced to do so. Integrity of the register would be enhanced by requiring use of PPSN/Public Services Card for citizens resident in the State.

In the case of citizens outside the State, passport numbers, birth certificate numbers or Foreign Birth Registration numbers could be employed. Once registered, each voter would retain a new register reference number, unique to the register to ensure the ongoing integrity of the register. It is estimated that the development of a register along these lines would take a period of up to 3 years. In addition, digitisation of the 156,766 Foreign Birth Registration records currently held in handwritten ledgers would be a prerequisite to the development of a national database. It is estimated that this work could be completed within 1 year, subject to the allocation of resources.

Another option might be to build on existing voter registration arrangements by retaining the existing model of 31 separate voter register databases. Citizens resident outside the State could apply for registration on-line directly to the local authority in whose area they were born. If the right to vote is also extended to citizens who were not born in Ireland, they could opt to

register with the local authority in whose area the parent or grand-parent through whom they claim citizenship was born. As noted above, digitisation of the old Foreign Births Register would be required so that the birthplace of grandparents could be searchable so that citizens could be told where to register. In addition, neither the old handwritten Foreign Births Register, nor the register since 2012 (which is digitised), list the details of the grandparent in the case of a citizen whose parent has a Foreign Birth Registration or in the case of naturalisation. There would be significant resource implications for Irish Embassies and Consulates or Department of Foreign Affairs and Trade consular services in trying to verify the constituency where the grandparent was born and it might not be possible in all cases.

In addition, this option would not accommodate citizens resident in Northern Ireland. Registration of these citizens would require a body to take on the role of registration authority. Ultimately, it is a role that might be assigned to the proposed Electoral Commission but, in the meantime, another option might be to assign this role to a local authority in the State that would be resourced to take on the role. It is estimated that the development of registration arrangements along these lines could take a period of 2 to 3 years.

Section 4: Method of voting

4.1 Context

If the right to vote at presidential elections is extended to citizens resident outside the State then, irrespective of whether the right is extended to all citizens or to some particular categories of citizens, consideration will need to be given to how the citizens resident outside the State would cast their ballot and how their votes would be counted.

In their 2007 publication [Voting from Abroad](#) the International Institute for Democracy and Electoral Assistance (IDEA) concludes that there is no best procedure for external voting, with each country having to consider what best suits the needs of their own electorate. This is underscored more recently for example in a paper from the International Foundation for Electoral Systems '*Out-of-Country Voting: A Brief Overview*' which is attached as Appendix 4 to this paper.

Taking the poll/casting a ballot

Four options are generally put forward for taking the poll in the case of voters who are resident outside the State ('external voting') – voting 'in person' at a dedicated polling station, voting by post, proxy voting and electronic/ internet voting. Irrespective of the option chosen, or the combination of options, the key criteria by which the options can be assessed are the degree to which they are workable in the circumstances of the country involved and the degree to which they maintain the integrity of the ballot.

Proxy voting is where the citizen resident outside the State nominates someone within the State to cast their vote for them. It is not proposed to consider this option on the basis that the proxy could simply use the procedure to obtain an additional vote. Neither is it proposed to consider internet voting at this point in time. This method of voting continues to be the subject of conflicting views internationally in relation to the security of the systems employed¹⁷. Other electronically assisted voting methods where it is possible to print off copies of ballot papers for

¹⁷ [Security Analysis of the Estonian Internet Voting System - 2014; E-voting: the promise and the practice - Australian Parliamentary Library 2012; New Zealand proposals for online voting at local elections](#)

marking may have merit. Future technological developments may, of course, improve the prospects for electronic voting. The relatively recent unsuccessful experience with electronic voting in Ireland remains fresh in the memory.

So, in considering how citizens resident outside the State in Ireland might vote in presidential elections, the focus for now is on voting ‘in person’ and postal voting.

4.2 Method of voting from outside the State for Australia, Canada, New Zealand, the UK and other European States

In Australia provision is made for postal voting and voting at Embassies, Consulates and High Commissions in their federal elections. Ballot papers are repatriated for counting.

In New Zealand voting papers are not automatically sent to voters who are overseas. Voters can download their voting papers from the website of the Electoral Commission, they can apply to the Electoral Commission for postal voting papers or they can vote in person at an overseas post. Voters can return their voting papers by uploading their voting papers onto the Electoral Commission’s website; they can post, fax or courier their voting papers to the Electoral Commission; or they can post, courier or hand deliver their voting papers to their nearest overseas post. Ballot papers are repatriated for counting.

In Canada, voters can vote by post Completed ballots may also be handed into Canadian diplomatic and consular offices. Ballot papers are repatriated for counting.

In the UK, voters can vote by post or by proxy. There is no provision for voting at embassies or consulates.

Information on the method of voting for citizens of European states resident outside their home state is provided in Appendix 1. A variety of arrangements are in place, including in-person voting at embassies, which is provided for by 22 of the 46 State surveyed; a choice of postal or proxy voting; a choice of proxy, postal or embassy voting, etc.

4.3 The option of ‘in person’ voting for citizens resident outside the State

‘In person’ voting is regarded as the best method of voting in terms of integrity of the ballot¹⁸. However, the potential logistical difficulties and associated costs involved raises the question of whether or not this is an appropriate option for Ireland in the case of voting by citizens resident outside the State.

While there are uncertainties about the overall number of citizens resident outside the State, **531,087** respondents to the 2011 census in England and Wales identified themselves as ‘Irish’ on the census form. In taking the poll at elections in the State the average number of voters per polling station on polling day, for election management purposes, is 800. If, for example, 50,000 people (a small proportion of the 531,087 regarding themselves as Irish and equivalent to the number of presidential voters registered in counties Cavan or Sligo) were anticipated to turn up to vote at the Embassy in London, it would necessitate the provision of 60 polling stations, which realistically is beyond the capacity of the Embassy to provide. If an adequate number of polling stations was not provided, there would be considerable access, public safety and security implications at the Embassy that would make completing the polling in a single day at the Embassy unfeasible.

In the case of other locations outside the State where citizens are resident, there are examples where we either do not have an Embassy (e.g. New Zealand) or where the Embassy is very far away from where the citizens live (e.g. citizens living in Calgary having to travel to Ottawa and citizens in Perth having to travel to Canberra or Sydney).

In any event, the operation of embassy voting would not be practical from a staffing, resources and skills point of view. The Department of Foreign Affairs and Trade has indicated that even if Ireland’s Embassies were assigned the task of setting up polling stations, this would require the deployment or hiring of significant additional resources, including personnel and venues in some cases.

The Department of Foreign Affairs and Trade offices in Northern Ireland are Secretariats of institutions under the Good Friday Agreement – the North South Ministerial Council and British Irish Intergovernmental Conference – and have no consular function.

¹⁸ Institute for Democracy and Electoral Assistance Publication - [Voting from Abroad](#) [page114]

4.4 The option of postal voting for citizens resident outside the State

Postal voting is not regarded as highly as ‘in person’ voting in terms of the integrity of the ballot¹⁹. However, it has the advantage of being able to reach potential voters more easily and at lower organisational costs. It also provides more equal access to voters spread across large geographical areas and in many different countries around the world. Having regard to the potential numbers and difficulties posed by providing for ‘in person’ voting for citizens resident outside the State, postal voting may prove to be less costly than ‘in person’ voting and may be the best model for Ireland in the short to medium term. However, this method of voting is not without risk in terms of greater potential for fraud and the fact that voting would be carried out outside the jurisdiction of the State.

4.5 Should postal voting be available to all voters if it’s available to voters outside the State?

At present, Irish law allows for postal voting only in limited circumstances. If the franchise at presidential elections is extended to citizens resident outside the State and if postal voting is decided upon as the preferred method of voting, and the risks inherent in that method are accepted, consideration will need to be given to giving all voters the option of voting by post.

¹⁹ Institute for Democracy and Electoral Assistance Publication - [Voting from Abroad \[page114\]](#)

Section 5: The implications for the administration of presidential elections

5.1 Context

Under section 10 of the Presidential Elections Act 1993, the returning officer at a Dáil Election in a constituency is also the local returning officer in that constituency for the purposes of a presidential election. In that capacity, the local returning officer is responsible for the practical aspects of the election such as taking the poll (at polling stations and through the postal and special voting arrangements) and counting the votes. At the end of each count the local returning officer notifies the Presidential Returning Officer (a person appointed by the Minister for this role) of the number of votes credited to each candidate. The Presidential Returning Officer then amalgamates the results from all the constituencies to determine the result of each count at a national level and ultimately to ascertain the result of the election.

If the right to vote at presidential elections is extended to citizens resident outside the State then, irrespective of whether the right is being extended to all citizens or to particular categories of citizens, there will be implications for the administration of presidential elections. These implications arise from the constituency basis to election administration and the need to ensure that arrangements are in place so that postal voter documentation is issued in good time to facilitate participation by voters resident outside the State, and so that envelopes containing ballot papers returned from locations outside the State can be opened and the ballots verified and included in the count on a timely basis.

Another implication that can be anticipated is the additional election administration expenses that will arise in catering for an expanded electorate. These expenses include the additional resources that will be required to issue and receive additional ballot papers and to count the additional votes. Additional costs will also arise in meeting the entitlement of presidential candidates to send election material free of charge to households which would then include households outside the State. The costs arising are addressed in section 6.

5.2 Assignment of voters resident outside the State to constituencies

While presidential elections may be held either in Dáil constituencies or on a county and city basis (section 12 of the Presidential Elections Act 1993), of the 13 presidential elections held between 1938 and 2011 the poll was taken in Dáil constituencies in 6 of the 7 contested

elections. The 1945 presidential election was held on a local authority area (county and city) basis and was held with local elections. It will be necessary to assign voters resident outside the State to constituencies or to local authority areas for the purpose of the administration of a presidential election so that local Returning Officers can fulfil their roles – the issue and receipt of postal votes to citizens resident outside the State and for receiving and counting those votes in due course. In this way, the votes of citizens resident outside the State can be included with the votes of citizens resident in a constituency to give a ‘constituency’ result that will be notified to the Presidential Returning Officer for amalgamation with all other constituency results. Citizens born in the State or whose citizenship derives from a parent or grandparent born in the State or from some other association with the State (naturalised citizens) could be assigned to a constituency covering the area in which they are registered. As noted previously, digitisation of foreign birth registration records would be required to identify the appropriate constituency.

A new and separate arrangement would need to be put in place to facilitate voting by citizens born and resident in Northern Ireland or born in Northern Ireland and resident outside the island of Ireland.

5.3 The election timetable

Article 12.3.3 of the Constitution provides for a 60 day window for the holding of a presidential election in Ireland. With a potentially significant expanded electorate, all of whom would be postal voters, consideration should be given to extending the 60 day period in Article 12.3.3 to 70 or 80 days.

Article 12.3.3 of the Constitution provides that:

An election for the office of President shall be held not later than, and not earlier than the sixtieth day before, the date of the expiration of the term of office of every President, but in the event of the removal from office of the President or of his death, resignation, or permanent incapacity established as aforesaid (whether occurring before or after he enters upon his office), an election for the office of President shall be held within sixty days after such event.

Section 6 of the Presidential Elections Act 1993 provides that the process of an ordinary presidential election must be completed in time to allow the person elected to enter into office

on the day following the end of term of the outgoing President. It provides that the process of an extraordinary presidential election (death, resignation etc.) must be completed within 60 days after the office becoming vacant.

Adequate time should be allowed for all stages of the election process. That includes the submission of and ruling upon nominations, taking the poll and counting the votes. The time allowed for each of these processes has varied over the years. The timelines for the 13 presidential elections held in Ireland are set out in Appendix 2. The timelines will have worked for each election at that point in time. However all 13 presidential elections to date have been held on the basis of voting by citizens resident in the State with the majority²⁰ casting their ballot on polling day in the 7 contested elections.

Voting by citizens resident outside the State takes more time²¹ than in-country voting. If the right to vote is to be extended to citizens resident outside the State they must be given adequate opportunity to participate in elections, whatever method of voting is employed. If the method of voting is to be postal voting adequate time needs to be provided for the issue, receipt, and return of ballot papers from such voters before the close of poll and for the validation of these ballot papers before the counting of votes commences.

5.4 Need to amend legislation on postal voting

The legislation relating to postal voting did not envisage the scale of postal voting to be administered that would arise in a franchise extended to citizens resident outside the State. The administration of postal voting and the legislation providing for it would need to be amended in the event of the extension of the franchise at presidential elections. These changes would need to provide for new arrangements providing for an extended timeframe for the issue and receipt of postal ballots and for the return and validation of postal ballots before the commencement of the counting of votes.

²⁰ At the 2011 presidential election for example the electorate totalled 3,191,157 of which 15,324 or 0.48% were postal voters

²¹ See the paragraph on timelines in the IFES study at Appendix 4; see also Chapter 5, page 115, of *Voting from Abroad*

5.4.1 Time for issue and return of postal ballots

Postal voting for citizens resident outside the State would be dependent on postal services around the world. Different lengths of time for the issue and return of ballot papers to returning officers would arise, depending on location. In the case of the UK, 2 to 3 days for delivery and 2 to 3 days for return would be the norm; in the case of Europe it would be 3 to 5 days each way; in the case of the USA/Australia/New Zealand it would be 5 to 7 days each way and in the case of Asia 7 to 10 days each way. Allowing for the printing of ballot papers (3 days), and the issue of ballot papers by the Local Returning Officer (say 3 days) and allowing for unforeseen time delays, these time frames suggest that postal voting could be organised if a period of some 30 days was allowed for between the close of nominations and polling day at presidential elections.

5.4.2 Validation of postal ballots

The Electoral Acts provide for a number of arrangements for the validation of postal ballots. Diplomats have their voting witnessed by an authorised person at the Mission. Defence Force personnel, Gardaí and voters with disabilities complete a receipt of their ballot paper which, in the case of Defence Forces personnel includes rank and number. Persons in prison have their vote witnessed by a prison official. People who vote by post for reasons of employment or study must attend at a Garda station to have their voting witnessed by a member of an Garda Síochána. Postal votes are returned to the local returning officer in an outer envelope which includes the relevant statutory declaration and the ballot paper in a separate envelope. When these are received by the local returning officer they are placed in a postal voters ballot box to be opened and validated between the close of poll on polling day and 9am on the following morning when the count commences, in accordance with provisions in sections 65 to 76 of the Electoral Act 1992 as applied by section 40(3) of the Presidential Elections Act 1993 to postal voting at a presidential election. Section 73 sets out the detailed procedure involved in the validation of postal ballots and provides that postal voters ballot boxes must be opened by the Local Returning Officer between close of the poll and 9am the following morning when the count (of all votes) starts.

In the event of the franchise at presidential elections being extended, postal voting will take place on a scale not envisaged by the current legislative provisions. New arrangements for the validation of postal ballots from citizens resident outside the State, and consequently maybe all

voters, will have to be put in place. The arrangement in the UK whereby postal voters submit their date of birth and signature when they register and each postal ballot returned is verified by checking both the date of birth and the signature is one option that should be explored if the franchise is to be extended.

5.4.3 Latest time for return/receipt of postal ballots

The count cannot proceed until all ballot papers for a constituency are ready for counting. Section 114 of the Electoral 1992 Act, applied to presidential elections by section 47 of the Presidential Elections Act 1993, provides for the verification of the ballot paper accounts in each constituency, following which all of the ballot papers are mixed together and then counted. The mix is a vital part of the count in a PRSTV election in Ireland as failure to mix the papers effectively could lead to unrepresentative transfers on the distribution of a surplus.

The period between close of poll on polling day and 9am the following morning would not be sufficient to enable a large number of postal ballots – as might be expected if voting rights are extended to citizens resident outside the State – to be dealt with.

The question of the time for the close of poll for postal voters should therefore be reviewed in the event of an extension of the franchise. At present postal ballots must be received by the local returning officer before close of poll on polling day. The question arises as to whether this should continue to be the case or whether it should be an earlier time so as to allow adequate time for the processing of postal ballots (opening of envelopes, validation of identity) before 9am on the day after polling day, the time for the commencement of the count.

5.4.4 Later start for the count

Another option would be to allow for a period of time between the close of poll and the commencement of the count during which postal ballot envelopes would be opened and postal ballots validated in readiness for inclusion in the count.

Section 6: Cost and resource issues associated with extending the right to vote at presidential elections to citizens resident outside the State.

6.1 Expanded electorate will give rise to additional costs in taking the poll, counting the votes and in distributing election material at presidential elections

The potential costs arising from an extension of the right to vote at presidential elections to all citizens resident outside the State are examined in this section.

Extending the right to vote at presidential elections to citizens outside the State will require the allocation of additional resources to the issue, receipt and validation of ballot papers and to the counting of votes. The additional postage costs arising would arise for payment from the Central Fund upon the sanction of the Minister for Finance and the Minister for Public Expenditure and Reform in accordance with section 5 of the Presidential Elections Act 1993. The additional election administration costs arising will be a matter for payment by the Minister for Finance on the basis of a Charges Order made by the Minister for Public Expenditure and Reform in accordance with section 11 of the Presidential Elections Act 1993.

6.2 Cost overview

Once off costs

- Referendum - **€15 to €16 million** (based on 2015 referendums)
- Registration of Electors - **€1.6 million to €2.4 million** (section 6.3)
- Digitisation of Foreign Birth Registration records - **€1 million** (section 3.4)

Additional costs for each election - between €5.9 million and €20.6 million

- Taking the poll and counting the votes - **€2.4 million to €8.2 million** (section 6.4)
- Postage costs - **€1.9 million to €6.7 million** (section 6.5)
- Candidate ‘freepost’ entitlement **€1.6 million to €5.7 million** (section 6.6)

Information Campaign abroad – additional resources may be required in some Embassies/consulates with large Irish communities.

Additional passport applications – additional resources may be required to manage an increase in passport applications should a valid passport be required as part of the registration/voting process.

6.3 Costs associated with the registration of electors

As indicated in section 3.4, the *Voter.ie* project team in the Dublin local authorities has been examining the scope for enhancing voter registration arrangements within the current legislative provisions. Based on estimates (2015 prices) that they compiled, the capital cost of developing voter registration on the basis of a national database managed by one authority on an agency basis for all authorities would be some €1.2 million. The project would be developed over two years and would give rise to annual recurring costs of €340,000 after that to cover annual software licensing charges, system maintenance and development, and service support.

The cost estimates put forward by the *Voter.ie* project team suggest that the annual recurring costs arising would be offset by anticipated ‘savings’ from year 3 onwards. ‘Savings’ of some €2 million are estimated, based on anticipated staff reductions in having one rather than a multiplicity of offices dealing with voter registration. A further €2 million in ‘savings’ is identified by discontinuing house to house enquiries to ensure the ongoing integrity of the register and is justified by a proposal to require the use of PPSN by new applicants for registration. While not all of these ‘savings’ would arise by year 3, it is nevertheless clear that the initial capital costs of changing to an online central register database would, on the basis of the estimates put forward, pay for itself within a reasonably short number of years.

Applying the *Voter.ie* estimates on a pro-rata basis to the current register of 3.37²² million to accommodate an additional 1 million voters resident outside the State would cost an additional €356,000; an additional 3.5 million voters would cost an additional €1.25 million. The annual recurring costs (€340,000) from year 2 onwards would similarly increase by €100,000 for 1 million additional voters and €350,000 for 3.5 million additional voters but would be offset by the ‘savings’, as outlined above, in the new system of registration.

²² Of the 3.37 million registered, 3.2 million are presidential electors; the additional 170,000 registrations relate to Dáil/European/Local electors who are not presidential electors.

6.4 Cost associated with taking the poll and counting the votes

The cost of running elections, including the costs incurred by returning officers in taking the poll and counting the votes, is met from the Central Fund (section 11 of the Presidential Elections Act 1993). On the basis of the current Charges Order, the extension of the franchise to citizens resident outside the State would increase costs arising by an estimated €2.4 million (additional 1 million voters) to €8.2 million (additional 3.5 million voters), as shown in the following table, which applies costs incurred at the presidential election 2011 on a pro-rata basis –

Additional costs for taking the poll and counting the votes	Additional electorate	
	1 million	3.5 million
	€	€
Returning Officer fees		
RO fee - €2.90 for each additional 100 electors over 50,000	29,000	101,500
€40.00 per 100 postal voters	400,000	1,400,000
€7.90 for each additional 1,000 electors over 50,000 - for Count	7,900	27,650
Staff		
engaged in dispatch and receipt of postal ballots - €87.50 for every 100 voters	875,000	3,062,500
Counters - based on 2011 count staff numbers		
Supervisor - €39 for each hour over 12 hours	87,204	305,214
Calculator - €33 for each hour over 12 hours	66,924	234,234
Counter - €25 for each hour over 12 hours	689,650	2,413,775
Count totals	843,778	2,953,223
Clerical/Admin		
€20.10 for every 100 electors	201,000	703,500
Total	2,356,678	8,248,373

6.5 Postage costs

Extending the right to vote at presidential elections to citizens resident outside the State will generate an unknown number of additional voters. For estimate purposes, the postage costs associated with an additional 1 million and 3.5 million voters are calculated on the basis of a 75% return of ballot papers (reflecting the rate of return on postal and special ballots at the 2011 and 2016 general elections). The postage cost for the issue and return of ballot papers on

this basis is €2.20, but there would be no cost in respect of unreturned ballots. On this basis, the additional costs would be €1.9 million in the case of an additional 1 million voters and €6.7 million in the case of an additional 3.5 million voters. These costs are met from the Central Fund, as part of the cost of running elections.

6.6 Costs associated with ‘freepost’ distribution of election material for candidates

Candidates in presidential elections are entitled to send one item of election material free of charge to each household in a constituency (section 32 of the Presidential Elections Act 1993). Extending the right to vote at presidential elections to citizens outside the State will add to the number of households to which election material can be sent, thereby increasing the costs that will arise under the ‘freepost’ scheme, where candidates avail of the facility. At the 2011 presidential election where all 7 candidates availed of the facility the cost of the ‘freepost’ facility was €10.2 million but that was based on the material being issued to every voter on the register of electors. The legislation was amended in January 2016 by [S.I. No. 20/2016](#) to provide for issue to each household in a constituency²³.

The number of additional households that might be involved in a franchise extended to citizens resident outside the State is not known. Neither can the number of candidates at future presidential elections be anticipated. However, in order to estimate the additional costs that might arise, estimates can be done on the basis of 7 candidates (as in the presidential election 2011) sending material to between 1 million and 3.5 million additional voters (equivalent to 330,000 to 1,165,000 households). Postage rates are €0.72 in the case of Northern Ireland and €1.10 in the case of the rest of the world.

Some 2.2 million households in the State would receive ‘freepost’ election material in the normal course on the basis of the current register of electors. Assuming some level of bulk discount, the base cost of implementing the ‘freepost’ scheme for domestic voters would therefore be around €8.47 million. On the same basis, the additional cost of 1 million voters/330,000 households (50% in Northern Ireland and 50% in the rest of the world) might be

²³ The change to household issue resulted in considerable savings in the cost of the 2014 European election and the 2016 Dáil general election.

some €1.6 million; likewise, the additional cost of 3.5 million voters/1,165,000 households (50% in Northern Ireland and 50% in the rest of the world) might be some €5.7 million.

6.7 Communicating with voters resident outside the State

The importance of communicating with potential ‘external’ voters is noted in the International Foundation for Electoral Systems paper *Out-of-Country Voting: A Brief Overview* copied at Appendix 4 to this paper. In the paper it is noted that *‘Outreach is another field which demands significant input on the part of external voting administrators. It is imperative that information is disseminated to potential external voters in a timely and accessible fashion, enabling them to participate. Facilitating and regulating political campaign activities for voters abroad can result in higher turnout during out-of-country voting.’*

At election time voters in the State are exposed to the posters, leaflets, public meetings of candidates and to the door to door visits of a candidate’s campaign team. The candidate ‘freepost’ facility is another way for voters to get information about the candidates at the election.

Polling information cards are issued to voters by local returning officers informing them of where and when they can cast their ballot.

Once the election polling day order is made the website of the Presidential Returning Officer is another source of information.

To encourage and facilitate participation in elections by citizens resident outside the State consideration will have to be given to how best to communicate with them. Additional costs, not quantifiable at present, may arise for this.

6.8 Election spending limits, candidate expenses recoupment

The Electoral Act 1997 (section 53) sets a spending limit of €750,000 for a candidate at a presidential election. The Act provides for reimbursement by the State of a candidate’s expenses up to €200,000 if the candidate is elected or receives in excess of one quarter of the quota at the count (section 21A).

The Act also prescribes donation limits for candidates at presidential elections.

The provisions in the Act for presidential elections should be examined and reviewed, in due course, in the context of any decision to extend the franchise at presidential elections.

APPENDICES

APPENDIX 1: The position in Europe and elsewhere

1. The position in Europe

The approach of European States to giving the right to vote in domestic elections to citizens resident outside the home State varies widely. So too does the means by which these citizens are enabled to vote, for example – in person, by post, by proxy or electronically. Table 1, which summarises the position in forty-six European States and the twenty-eight European Union States - Ireland included in both- is based on material provided in an article - *The Right to Vote for Non-Resident Citizens in Europe* –published in October 2016 in the quarterly *International and Comparative Law*.²⁴

The table shows that, while the method of voting varies, 62% of European States and 74% of EU States provide for voting from abroad by their citizens who are resident outside the home State. This finding is echoed in the report on *Out-of-Country Voting* adopted by the Venice Commission in June 2011²⁵. Paragraph 14 of that report relates the findings of a European Court of Human Rights survey of 33 Council of Europe member states, noting that "... a large majority (29) have implemented procedures allowing voting from abroad." The report also indicates that in the case of some countries (eg Italy, France and Portugal) the voting right of citizens resident abroad is provided for in their constitutions; in other countries the right is regulated through electoral or other special laws.

The table shows that an additional 20% of the European States surveyed allow their citizens who are resident outside the Home State to vote in elections but only if they come home to do so. Three EU States fall into that category – Cyprus, Greece and Malta.

1.1. Time limits in European States

13% of the European States surveyed restrict the entitlement to vote to those citizens who are temporarily abroad. Two EU Member States fall into that category – Hungary and Denmark. However, the article on which the table is based does not elaborate on what constitutes a temporary absence from the State.

²⁴ International & Comparative Law Quarterly Vol 65, Issue 4, October 2016.

²⁵ Council of Europe/ European Commission for Democracy Through Law (Venice Commission): Study No.580/2010 of 24 June 2011

Only two States – Germany and the United Kingdom – are reported in the article as having a voting restriction on their citizens resident outside the State based on an absence from the State of a fixed term of years. German citizens resident outside the State can retain the right to vote in domestic elections for a period of absence from the State of up to 25 years. However, if a citizen resident outside the State can demonstrate that they have acquired a personal and direct familiarity with the political conditions in Germany and that they are affected by them, they can vote in the domestic election notwithstanding the absence of more than 25 years. UK citizens lose the right to vote in domestic elections if absent from the State for more than 15 years. However, a policy paper published in October 2016 outlines the UK Government's intention to remove the 15 year limit and to allow their citizens resident outside the State to vote no matter how long they have been resident outside the UK. A 'Votes for Life' Bill is being prepared but has not yet been published. Mr Chris Skidmore MP, Minister at the Cabinet Office, indicated at an address to the UK Annual Elections Conference on 19 January 2017 that the reason for change was based on principle, he said "The Government's principle is clear: participation in our democracy is a fundamental part of being British, no matter how far you have travelled or when you left".

1.2. Method of voting in European States

Voting in person at embassies or other diplomatic offices is the arrangement most common for European countries. Of the 37 States shown in table 1 whose citizens resident abroad have the right to vote in domestic elections, 22 (79%) provide for in-person voting at embassies of which 11 (39%) allow voting at embassies only and 11 allow for embassy voting together with other options (8 postal, 1 proxy, 1 post and proxy, 1 post and electronic). In 2 States there is no in-person voting, only postal, electronic or proxy voting. In 3 States only postal voting is allowed and in 1 State proxy voting only. In 9 States citizens resident abroad must come home to vote.

Of the 20 EU States shown in the table as allowing their citizens resident abroad to vote in domestic elections, 16 (80%) of the States provide for embassy voting; 5 States (25%) allow for voting at embassies only while the other 11 States allow for embassy voting together with other options, primarily postal voting (8 of the 11 States involved).

It can be concluded that a majority of European and European Union States facilitate their citizens resident outside the Home State by providing them with the opportunity to vote in domestic elections without having to return home to do so. Voting in person at embassies and by post are the options most favoured in facilitating the citizens. Despite this trend, the *Out of Country Voting* report adopted by the Venice Commission makes clear that it is within the sovereignty of each Council of Europe State to decide whether or not they wish to grant the right to vote to their citizens resident outside their Home State. Nonetheless, the Venice Commission suggests that States should adopt a positive approach to the right to vote of citizens resident outside their Home State on the basis that doing so fosters “development of national and European citizenship”. The report also notes that “...citizens residing abroad generally show... little readiness to actually exercise the right to vote”.

	Europe-at-Large	EU States	
Method of Voting			
Embassy only	11	5	Bulgaria, Croatia, Czech Republic, Finland, Romania
Post only	3	3	Austria, Luxembourg, Slovakia
Proxy only	1	0	
Electronic only	0	0	
Embassy and Post	8	8	Italy, Latvia, Lithuania, Poland, Portugal, Slovenia, Spain, Sweden.
Embassy and Proxy	1	1	France
Embassy and Post and Proxy	1	1	Belgium
Embassy and Post and Electronic	1	1	Estonia
Post and Electronic and Proxy	2	1	Netherlands
Come home to vote only	9 (20%)	3 (11%)	Cyprus, Greece, Malta.
SUB-TOTAL	37 (82%)	23 (85%)	
Time limits			
Restricted to temporary absence	7 (13%)	3 (7%)	Hungary, Denmark, Ireland
Restricted to a fixed term of time	2 (4%)	2 (7%)	Germany, United Kingdom
SUB-TOTAL	9 (18%)	5 (15%)	
TOTAL OF COUNTRIES SURVEYED	46	28	

2. The position in Australia, Canada and New Zealand

The approach taken by non-European States in addressing the right of their citizens to vote in domestic elections when resident outside the home State is also worth considering. The position in Australia, Canada and New Zealand is outlined.

2.1 Australia.

An Australian citizen can enrol as a voter at an overseas address as long as their departure from Australia was in the last 3 years and that they intend to return within 6 years of departure. However, extensions to the 6 year period can be applied for annually. A citizen going overseas for a short while who intends to return to the same address can apply to stay on the register where currently enrolled – once the authorities are notified, they can then vote by post or in person at an overseas polling place. So the position in Australia is that voting arrangements are in place for their citizens who are resident outside the State; they can vote in person at overseas polling places or by post; while there are time restrictions, extensions can be applied for. An interested citizen resident outside the State can ensure that they continue to vote while away from home.

2.2 Canada.

Inclusion in the Canadian international register of electors is confined to citizens who have previously resided in Canada at any stage, who intend to return to Canada and who have been away from Canada for less than 5 consecutive years. It might be noted that the ‘5 year rule’ in Canada is the subject of Court hearings at present. The Superior Court in Ontario ruled that the ‘5 year rule’ was unconstitutional. However, on appeal, the Court of Appeal held (split decision) that the ‘5 year rule was constitutional’. The issue will come before the Canadian Supreme Court in due course. So the position in Canada is that voting arrangements are in place for those citizens who meet the ‘5 year rule requirement’; they can vote by post/courier; there would not appear to be an option to seek an extension to voting entitlement once the 5 years have lapsed.

2.3 New Zealand.

The right to vote when resident outside the State extends, in certain circumstances, to both New Zealand citizens and others who are resident in New Zealand. In order to qualify, the potential voter must have lived in New Zealand continuously for 1 year at some stage in their lives and be either (a) a New Zealand citizen who has been in New

Zealand at any point in the past 3 years or (b) a New Zealand permanent resident who has been in New Zealand at any point in the past 12 months. Once these conditions are met, the voter who is resident outside the State can vote in person at diplomatic offices or by post, fax or courier; they can also download the ballot paper from the New Zealand Electoral Commission website and upload the completed ballot paper for transmission back to the Electoral Commission.

2.4 Comment

The position in the three States examined underlines the wide differences in approach to giving the right to vote in domestic elections to citizens resident outside the Home State. However, all three have a ‘time bound’ dimension, linked to a period of prior residence in the State and/or absence from the State, in determining eligibility to vote. This ranges from a relatively liberal approach in the case of New Zealand to a more restrictive approach in Canada. Implementation of eligibility criteria in all cases depends upon the State being able to register the movement of persons into and out of their States. Whether regarded as relatively liberal or restrictive, the ‘time bound’ dimension to eligibility to vote in these States is different to the approach taken in the majority of European States.

The method of voting from abroad for these States also varies widely, ranging from several options for New Zealand voters to voting by post only for Canadians.

APPENDIX 2: Timelines for presidential elections held in Ireland

PRESIDENTIAL ELECTIONS IN IRELAND							
Presidential election	Date of expiration of term of office of outgoing President	60 day period begins	Date of Ministerial Order	Last day for nominations	Candidates	Polling day	Elected President
1938			14 April 1938	4 May 1938	Dr. Douglas Hyde	Tuesday 31 May 1938 Uncontested. Inaugurated, Saturday 25 June 1938	Dr. Douglas Hyde
1945	24 June 1945	25 April 1945	27 April 1945	16 May 1945	Patrick McCartan Seán MacEoin Sean T. O'Kelly	Thursday 14 June 1945 (9.00 a.m. – 9.00 p.m.) Inaugurated, Monday 25 June 1945	Seán T. O'Kelly
1952	24 June 1952	25 April 1952	25 April 1952	16 May 1952	Seán T. O'Kelly	Tuesday 10 June 1952 Uncontested. Inaugurated, Wednesday 25 June 1952	Sean T. O'Kelly
1959	24 June 1959	25 April 1959	27 April 1959	19 May 1959	Eamon de Valera Seán MacEoin	Wednesday 17 June 1959 (9.00 a.m. – 9.30 p.m.) Inaugurated, Thursday 25 June 1959	Eamon de Valera
1966	24 June 1966	25 April 1966	27 April 1966	10 May 1966	Eamon de Valera Thomas F. O'Higgins	Wednesday 1 June 1966 (9.00 a.m. – 10.00 p.m.) Inaugurated, Saturday 25 June 1966	Eamon de Valera

PRESIDENTIAL ELECTIONS IN IRELAND							
Presidential election	Date of expiration of term of office of outgoing President	60 day period begins	Date of Ministerial Order	Last day for nominations	Candidates	Polling day	Elected President
1973	24 June 1973	25 April 1973	25 April 1973	8 May 1973	Erskine Childers Tom O'Higgins	Weds 30 May 1973 (9.00 a.m.-9.00 p.m.) Inaugurated, Monday 25 June 1973	Erskine Childers
1974	17 November 1974 (Outgoing president died in office.)		21 November 1974	3 December 1974	Cearbhall Ó Dálaigh	Weds 18 December 1974 (9.00 a.m. – 9.00 p.m.) Uncontested. Inaugurated, Thursday 19 December 1974.	Cearbhall Ó Dálaigh
1976	22 October 1976 (outgoing President resigned)	3 October 1976	26 October 1976	9 November 1976	Dr. Patrick Hillery	Weds 24 November 1976 (9.00 a.m. – 9.00 p.m.) Uncontested. Inaugurated, Friday 3 December 1976	Dr. Patrick Hillery
1983	2 December 1983	3 October 1983	7 October 1983	21 October 1983	Dr. Patrick Hillery	Weds 23 November 1983 (9.00 a.m. – 9.00 p.m.) Uncontested. Inaugurated, Saturday 3 December 1983	Dr. Patrick Hillery

PRESIDENTIAL ELECTIONS IN IRELAND							
Presidential election	Date of expiration of term of office of outgoing President	60 day period begins	Date of Ministerial Order	Last day for nominations	Candidates	Polling day	Elected President
1990	2 December 1990	3 October 1990	3 October 1990	17 October 1990	Austin Currie Brian Lenihan Mary Robinson	Weds 7 November 1990 (9.00 a.m. to 9.00 p.m.) Inaugurated, Monday 3 December 1990	Mary Robinson
1997	12 September 1997 (President resigned)	13 September 1997	13 September 1997	30 September 1997	Mary Banotti Mary McAleese Derek Nally Adi Roche Dana Rosemary Scallon	Thursday, 30 October 1997 (9.00 a.m. to 9.00 p.m.) Inaugurated, Tuesday 11 November 1997	Mary McAleese
2004	10 November 2004	11 September 2004	13 September 2004	1 October 2004	Mary McAleese	Friday, 22 October 2004 (7.00 a.m. to 10.00 p.m.) uncontested Inaugurated, Thursday 11 November 2004	Mary McAleese

PRESIDENTIAL ELECTIONS IN IRELAND							
Presidential election	Date of expiration of term of office of outgoing President	60 day period begins	Date of Ministerial Order	Last day for nominations	Candidates	Polling day	Elected President
2011	10 November 2011 (Thursday)	11 September 2011 (Sunday)	30 August 2011 (Tuesday)	28 September 2011 (Weds)	Mary Davis Seán Gallagher Michael D. Higgins Martin McGuinness Gay Mitchell David Norris Dana Rosemary Scallon	Thursday 27 October 2011 (7am to 10pm) Inaugurated, Friday, 11 November 2011	Michael D. Higgins

APPENDIX 3: Table of who is entitled to vote at elections in Ireland, including numbers

Elections in Ireland – Entitlement to vote		
Election Type	People (over 18) with the right to vote ²⁶ (nos. on current registers ²⁷)	Constitutional and legal provisions
Presidential election	All Irish citizens resident in the State (3,204,638)	<ul style="list-style-type: none"> Every citizen who has the right to vote at an election for members of Dáil Éireann shall have the right to vote at an election for President... <i>Article 12.2.2° of the Constitution</i>. A person shall be entitled to be registered as a presidential elector in a constituency if s/he has reached 18, is an Irish citizen and ordinarily resident in that constituency...<i>section 7(1) of the Electoral Act 1992</i>.
Dáil election	All Irish citizens resident in the State British citizens resident in the State (3,257,661)	<ul style="list-style-type: none"> All citizens, and such other persons in the State as may be determined by law, without distinction of sex who have reached the age of eighteen years who are not disqualified by law and comply with the provisions of the law relating to the members of Dáil Éireann, shall have the right to vote at an election for members of Dáil Éireann...<i>Article 16.1.2° of the Constitution</i>. A person shall be entitled to be registered as a Dáil elector in a constituency if s/he has reached 18, is ordinarily resident in that constituency and is either (a) a citizen of Ireland or (b) a British citizen or a national of an EU Member State where there is a reciprocity of voting rights for Irish citizens in that Member State's Parliamentary elections...<i>section 8 (1) and (2) of the Electoral Act 1992</i>.
European Parliament election	All Irish citizens resident in the State + All European citizens resident in the State (3,283,286)	<ul style="list-style-type: none"> A person shall be entitled to be registered as a European Parliament elector in a constituency if s/he has reached 18, is ordinarily resident in that constituency and is either (a) a citizen of Ireland or (b) a national of another Member State of the European Union...<i>section 9 of the Electoral Act 1992</i>

²⁶ These numbers include diplomats and defence force personnel to whom the residency requirement does not apply. They are entitled to vote by post when serving outside the State.

²⁷ For Dáil, European Parliament and local elections and for referendums this is the register of electors that came into force on 15 February 2017. For Seanad elections (university constituencies) this is the register of electors that came into force on 1 June 2016.

Elections in Ireland – Entitlement to vote		
Election Type	People (over 18) with the right to vote ²⁶ (nos. on current registers ²⁷)	Constitutional and legal provisions
Local election	All persons resident in the State (3,376,057)	<ul style="list-style-type: none"> A person shall be entitled to be registered as a local government elector in a local electoral area if s/he has reached 18 and is ordinarily resident in that area...<i>section 10 of the Electoral Act 1992</i>.
Referendum	All Irish citizens resident in the State (3,204,638)	<ul style="list-style-type: none"> Every citizen who has the right to vote at an election for members of Dáil Éireann shall have the right to vote at a Referendum...<i>Article 47.3 of the Constitution</i>. “Elector” is defined in section 2(1) of the Referendum Act 1994 as a presidential elector. A person shall be entitled to be registered as a presidential elector in a constituency if s/he has reached 18, is an Irish citizen and ordinarily resident in that constituency...<i>section 7(1) of the Electoral Act 1992</i>.
Seanad election – University Constituencies	Graduates of NUI or Dublin City University (Trinity College) resident inside or outside the State – there's no residency requirement. (NUI 103,165; Dublin City University 57,732)	<ul style="list-style-type: none"> Elections of the elected members of Seanad Éireann shall be regulated by law...<i>Article 18.10.1° of the Constitution</i>. Every person who is a citizen of Ireland and has received a degree in the National University of Ireland and has attained the age of 18 is entitled to be registered as an elector for the National University constituency...<i>section 7(1) of the Seanad Electoral (University Members) Act 1937</i>. Every person who is a citizen of Ireland and has received a degree in the University of Dublin land and has attained the age of 18 is entitled to be registered as an elector for the Dublin University constituency... <i>section 7(2) of the Seanad Electoral (University Members) Act 1937</i>.
Seanad election - Panel Members	Elected members of the Oireachtas and of local authorities resident inside or outside the State – there's no residency requirement (1,167)	<ul style="list-style-type: none"> Elections of the elected members of Seanad Éireann shall be regulated by law...<i>Art 18.10.1° of the Constitution</i>. The electorate consists of (a) the members of Dáil Éireann elected at the Dáil election consequent on the dissolution of Dáil Éireann which occasioned such Seanad election,(b) the members of Seanad Éireann and (c) the members of every county, city or county and city council...<i>section 44(1) of the Seanad Electoral (Panel Members) Act 1947</i>.

APPENDIX 4: *Out-of-Country Voting: A Brief Overview – International Foundation for Electoral Systems*



Out-of-Country Voting: A Brief Overview

Peter Erben, Ben Goldsmith, Aysha Shujaat

IFES White Paper

April 2012



The International Foundation for Electoral Systems



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Introduction

This paper strives to provide a brief overview of the options, risks and opportunities facing a nation considering out-of-country voting (OCV).

The resources available for out-of-country voting are extensive and provide comprehensive knowledge on international practices and lessons-learned for those considering out-of-country voting. A selection of key literature is available in a listing at the end of this paper. This selection contains a wide array of global case studies and statistics, which provide important insight into the successes and failures of other nations. Studying this is pivotal to making an informed decision and effectively implementing out-of-country voting anywhere.

Many countries around the world have large diasporas – groups of citizens who live outside of the country's territory – who may demand inclusion in the electoral process of their country of origin. The enfranchisement of the diaspora is not generally deemed a democratic standard, but is an option every democracy has to consider. Politicians wishing to tap into this potentially significant pool of voters will often insist that such citizens be allowed to participate. Such demands are more often based on political considerations and made without a full understanding of the cost and complexity of conducting an out-of-country voting operation.

A growing political and electoral phenomenon, out-of-country voting, presents risks and challenges that could significantly impact domestic politics of a state. This is not to say that out-of-country voting should never be considered, merely that complexities and risks need to be understood before making a decision to enfranchise the diaspora.

Complexities and Risks of Out-of-Country Voting

Cost

Out-of-country voting operations are generally much more expensive than in-country voting. International experience shows that nationally conducted elections typically cost in the range of US\$1-2 per registered voter. Out of country voting operations often cost at least five to 10 times more, depending on the way a voter casts a ballot, resulting in a cost of US\$5-20 per voter. This can make out-of-country voting prohibitively expensive for many nations. If not a reason to ignore the operation completely, the costs involved can also limit the extent and scope of out-of-country voting.

Political Influence

Before a nation decides to enfranchise its diaspora, it needs to carefully consider the potential political implications of diaspora voting. This is especially the case when a nation has a large diaspora population compared to the domestic population. In such cases, the diaspora can have a more substantial influence on the electoral result.

For many, it will be unacceptable for a population no longer residing in the country to have such influence when they do not have to live with the results of the election on a daily basis. Further, some electoral systems are more susceptible to influence by small numbers of voters, like those based on single-member constituencies. Where the origins of the diaspora population is concentrated in certain areas, the diaspora heavily influence the results in these constituencies or, in an extreme situation, the diaspora may constitute the majority of voters and easily own a constituency. To counteract the potential political influence of the diaspora, while still allowing them to participate, a separate allocation of out-of-country seats can be created which are elected solely by the diaspora. This can balance the desire for inclusion with the possibility of excess influence by diaspora voters.

Out-of-country seats could also avoid delimitation issues which may arise if external votes are to be tallied together with in-country votes when determining constituency boundaries. The merits and demerits of integrating external voters and the establishment of any extraterritorial districts should be carefully analyzed so out-of-country voting is seen as a positive democratic development by stakeholders and wider public.

Operational Challenges

Conducting out-of-country voting is incredibly complex and challenging for an election management body (EMB). In many cases, the diaspora population is large and spread across many different countries, which makes it difficult to assess the interest in participation amongst the various diaspora communities. The EMB needs to ensure that materials are delivered, staff is trained and results are returned from locations around the world – locations that are often not directly under the supervision of the EMB.

Often an out-of-country voting operation is as much of a challenge as the in-country voting operation, but for only a fraction of the voters. The risk for an EMB is that it spreads resources too

thinly by attempting to conduct two similarly challenging operations at the same time. As a result, the quality of the in-country election can suffer.

To avoid this, states can consider including institutions to support the election management body in conducting out-of-country voting. Such cooperation and division of responsibility with other national institutions, such as the Ministry of Foreign Affairs, can lessen the burden of a thinly resourced EMB. Further, diversifying registration and voting staff to include election officials, civil servants and representatives of political parties and/or national communities abroad can go a long way in building confidence in the out-of-country electoral process.

Other operational issues such as security, communication systems, administrative and electoral facilities, staffing and training, election materials and transport, informational materials and observation costs are significant in deciding on the issue of out-of-country voting.

Outreach is another field which demands significant input on the part of external voting administrators. It is imperative that information is disseminated to potential external voters in a timely and accessible fashion, enabling them to participate. Facilitating and regulating political campaign activities for voters abroad can result in higher turnout during out-of-country voting.

Timelines

Generally out-of-country voting requires more time for registration, voting and counting than in-country elections, particularly depending on the geographical distribution of the potential voters. Experience shows that it can take nine to 12 months to manage an inclusive postal voting process and six to nine months for in-person voting. Early planning and preparations are especially critical when negotiations with host countries are required for the implementation of operations.

Reasonably Equal Access

Equal access, or more realistically, reasonable equal access, is one of the most difficult operational challenges of election administration. For diasporas spread across many countries and geographically dispersed within these countries, providing meaningful access for voters can be very challenging when using an in-person voting method. It is inevitable that political preferences will vary amongst diaspora populations and the election administration will be vulnerable to accusations of bias. Politicians may claim that administrative decisions by the EMB concerning the

level of service provided in different voting locations are an attempt to disenfranchise certain groups of voters.

In order to mitigate accusations, the EMB will need to develop clear, objective criteria for the countries in which voting services will be provided and the levels of service provided. They will ideally obtain broad political agreement for these criteria. Equal access is more achievable if absentee (postal or Internet) voting methods are used, but, as discussed below, these approaches carry other risks and challenges.

Defining and Proving Eligibility

Defining which members of the diaspora are eligible for participation in out-of-country voting is a potentially divisive political issue. Those who hold a passport or citizenship in the country would generally be considered eligible to participate. But what is the status of those who have adopted an additional nationality or passport, or the children and grandchildren of those citizens abroad? Decisions on these issues can significantly expand the number of eligible voters, exacerbating the logistical and political complications listed above. Certain legal limitations, such as restricting eligibility based on time and/or situation of absence, can be introduced to allow an inclusive yet manageable service for out-of-country voters.

Once eligibility criteria have been defined, there may be an added complication in proving the eligibility, depending on documents available to the diaspora. Legal provisions permitting out-of-country voting will need to clearly define documentary requirements, or identify the authority responsible for defining these documentary requirements.

Proving eligibility is closely tied to voter registration of external voters, which is more challenging than registration of in-country voters, especially in the case of undocumented migrants. States need to consider the source, place and method of registration, which may vary from consular lists to in-person registration during elections.

Fraud and Perception of Fraud

Out-of-country voting operations are much more susceptible to actual fraud and perceptions of fraud than in-country voting. The methodology used will have a significant influence on this, with in-person voting methodologies providing more opportunity for security than postal or internet methodologies. However, even in-person methodologies are more difficult for the EMB to

supervise and control as election administration staff is not present and it is unlikely that the process of out-of-country voting will be observed by independent observers or party agents. This lack of observation leads to a lack of transparency and an absence of the normal checks and balances provided by observation. This lack of transparency can create a perception of fraud a significant issue, with little scope for independent rebuttal and verification by the EMB. The percept that out-of-country voting is a 'black box' contains a significant risk that perceptions of fraud through diaspora voting, whether valid or not, can seriously undermine the integrity and acceptability of the overall electoral process.

The relevance of these complexities and risks will vary depending on the out-of-country voting methodology that is implemented. In the following section the complexities and risks will be analyzed for each of the major approached that are employed to enfranchise the diaspora.

Analysis of Out-of-Country Voting Methodologies

Return Voting

By the strictest of definitions, this methodology is not considered as out-of-country voting because it involves diaspora voters registering to vote in advance, often through a country's embassy, and returning to the country to actually cast their ballot. This can be facilitated by the establishment of polling stations at major airports in the country or major land entry points. The requirement for voters to attend a polling station in-person provides the greatest opportunity for the prevention of fraud, as voters can be asked to prove their identity and eligibility at the point of polling. While return voting is simpler from an administrative perspective, it places a significant financial burden on prospective voters and is likely to only enfranchise wealthier groups of the diaspora, who are likely to have a particular political bias.

In-Person Polling Station

A second approach that can be used is the establishment of polling stations in locations where diaspora populations are concentrated. This will inevitably require the establishment of polling stations outside of embassy and consulate premises. Again, in-person voting provides the greatest protection against fraud. Polling stations outside of embassies/consulates allow a much greater level of voting service to be provided and a higher level of enfranchisement. The operational complexities of setting up such polling stations are, however, a huge logistic burden.

Further, it is very unusual for a host state to allow another nation to hold its elections on the host's territory. In most cases, such voting will simply not be allowed by the host state, and even if such operations are considered, defining the modalities of such voting operations will involve complex inter-governmental negotiations. This methodology is likely to be the most expensive option for out-of-country voting.

Embassy Voting

This option represents the same approach as in the in-person polling station approach, except that voting only takes place in the country's embassies and/or consulates. The operational complexities of this approach are less challenging and the limited number of locations allows for greater control of the voting process. The in-person approach is again more secure against fraud.

The biggest drawback of this methodology is the level of service provided to voters. Having to attend the embassy or consulate may effectively exclude diaspora voters because of the cost and time involved in travelling to the embassy to vote and, possibly, register. Further, the embassy facility may not have the capacity to deal with large numbers of voters.

Postal Voting

Under this methodology, ballots are mailed out to registered out-of-country voters and need to be completed and returned by mail for counting. They can be returned to collection points in host countries or directly back to the country. Postal voting provides an equal level of access to voting for the diaspora and is the easiest way to provide global access to out-of-country voters.

However, ballots need to be ready very early in the process for postal balloting to be feasible, and this methodology can lead to delays in the finalization of results due to the time required for mailing and returning ballots. Postal voting is also a very insecure voting methodology. There is no guarantee that the ballot has been completed by the registered voter. The vulnerability of postal voting to fraud creates concern over the integrity of out-of-country voting, with potential implications for the acceptance of election results.

Internet Voting

Internet voting is a new addition to the range of methodologies available for out-of-country voting. However, this technology is still in its early stages of development and is not generally

considered to be secure enough to use for something as important as national elections. Only in situations where a relatively sophisticated technological and administrative infrastructure is in place, permitting the secure identification of the voter, should Internet voting be considered. To use Internet voting without such identification technology would unnecessarily expose the election to fraud and the perception of fraud.

A Process to Decide on Out-of-Country Voting

Assessing whether and how a country should have a facility for the diaspora to vote is a very complex and often controversial process that can be dominated by political interests and emotional issues. Diasporas often have a strong voice in domestic politics by, for example, appealing effectively to nationalistic values. Additionally, these groups can also yield significant political influence on states where their incomes contribute significantly to their home nations.

While there are often strong arguments for making out-of-country voting available, the complexities and inherent imperfections of the process can lead to a negative overall experience. This is exasperated by diasporas often placing pressure on politicians and electoral management bodies (EMBs) to deliver a level of service that is unrealistic. Therefore, during the process of deliberating and implementing out-of-country voting, it is important that electoral management bodies and politicians manage expectations carefully.

The decision process should be characterized by transparency and inclusion to further the highest possible participation and eventual buy-in from stakeholders who are directly affected. These stakeholders will likely be the most critical commentators on the eventual outcome, whether that is a decision not to allow the diaspora to vote or to provide a limited level of out-of-country voting services.

One approach to a transparent and inclusive decision making process is to establish a dedicated out-of-country voting committee that includes external stakeholders such as civil society and diaspora interest organizations. Such a committee must have the time and resources necessary to carefully study global experiences of out-of-country voting and analyze them in the context of their nation.

The decision making process should also include public hearings – especially hearings held abroad with diaspora communities – to gain acceptance and support of the final decision. In the pursuit of transparency, a draft report could be widely circulated to illustrate all factors that influenced the

recommendation of the committee and give interested stakeholders the opportunity to comment before the report is finalized.

The committee and other stakeholders interested in the process would benefit greatly from studying the resources referenced in this document and consulting international experts who have specialized and participated in out-of-country voting projects globally.

Key Resources on Out-of-Country Voting

General Publications and Literature

1. International IDEA, *Voting from Abroad - The International IDEA Handbook*, 2007.

The book examines the theoretical and practical issues surrounding external voting and contains case studies 20 different countries.

Available at: http://www.idea.int/publications/voting_from_abroad

2. Grace, J., *Challenging the Norms and Standards of Election Administration: Standards for External and Absentee Voting*, IFES, 2007, pp. 35 – 58.

This paper examines the issues surrounding external voting and highlights human rights instruments and election standards in the context of OCV.

Available at: <http://www.ifes.org/publication/3dd9c7573d5b38d597a995a5533d456e/3%20IFES%20Challenging%20Election%20Norms%20and%20Standards%20WP%20EXTVOT.pdf>

3. Council of Europe (Venice Commission), *Report on Out-of-Country Voting*, 24 June 2011.

This paper studies the issue of OCV with an emphasis on procedures and practices in European states.

Available at: http://www.venice.coe.int/site/dynamics/N_Subject_ef.asp?T=8&L=E

4. Rojas, H., *A Comparative Study of the Overseas Voting Laws and Systems of Selected Countries*, September 2004.

This paper offers comparative analysis of similarities and differences of OCV laws and systems in selected countries.

Available at: http://pdf.usaid.gov/pdf_docs/PNADA596.pdf

5. Goldsmith, B., *Out-of-Country Voting in Post-Conflict Elections*, ACE Electoral Knowledge Network, 2005.

The paper expands on the experiences of recent OCV missions in Iraq and Afghanistan.

Available at: <http://aceproject.org/today/feature-articles/out-of-country-voting-in-post-conflict-elections/?searchterm=Ben%20Goldsmith%20Out-of-Country%20Voting%20in%20Post-Conflict%20Elections>

6. Baubock, R., *Stakeholder Citizenship and Transitional Political Participation: A Normative Evaluation of External Voting*, Fordham Law Review, Vol. 75, Issue 5, 2007.

The paper studies external voting from the perspective of extending citizenship status to individuals who are stakeholders in the future of a political community.

Available at: <http://ir.lawnet.fordham.edu/flr/vol75/iss5/4>

7. Grace, J. & Fischer, J., *Enfranchising Conflict Forced Migrants: Issues, Standards and Best Practices*, IOM/PRESS, 29 September 2003.

The discussion paper highlights election standards, systems, issues and experiences in enfranchising CFMs.

Available at: http://www.geneseo.edu/%7Eiompress/Archive/Outputs/Standards_Final.pdf

8. IDEA, Voting by Mail. The IDEA Technical Paper Series for Election Administrators, 1999.

The paper outline elements, rational, merits/demerits and operational aspects of E Voting using example from various countries.

Available at: http://www.idea.int/vt/upload/voting_by_mail.pdf

9. Karp, J. and Banducci, S., *How All-Mail Elections Influence Turnout*, 2000.

The paper examines how the adoption of all mail elections as a replacement for the traditional polling place impacts political participation in United States, emphasizing on the example of the state of Oregon.

Country Reports and Studies

10. Council of Europe (Venice Commission), *Out of Country Voting Legal Provisions*, 6 October 2010.

This paper contains listing of legal provisions for OCV in member European states.

Available at: http://www.venice.coe.int/site/dynamics/N_Subject_ef.asp?T=8&L=E

11. International Organization for Migration, *Southern Sudan Referendum Out-of-Country Voting, Final Report*, January 2011.

12. IOM & IFES, *Afghan Presidential Elections 2004: Out-of-Country Voting and Registration Programme for Iran and Pakistan, Final Report*. November 2004.

13. Electoral Commission (U.K.), *Absentee Voting in Great Britain: Report and Recommendations*, March 2003.

Available at:

http://www.electoralcommission.org.uk/_data/assets/electoral_commission_pdf_file/002/0/16049/AbsentvotinginGBfinal_9869-7240_E_N_S_W_.pdf

14. Barstow, D. & Van Natta, D Jr., *How Bush Took Florida: Mining the Overseas Absentee Vote*, New York Times, 15 July 2001.

Available at: <http://www.nytimes.com/2001/07/15/us/examining-the-vote-how-bush-took-florida-mining-the-overseas-absentee-vote.html>

Online Resources

ACE Voting from Abroad: <http://aceproject.org/ace-en/topics/va>

About the Authors

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Peter Erben is a senior electoral advisor who specializes in the management of electoral projects and in assistance to the strengthening of democratic institutions in post conflict, transitional and developing countries.

He has previously been the Chief Electoral Officer and Electoral Commissioner of Kosovo and Afghanistan and directed the out-of-country elections for both Afghanistan and Iraq.

Based on this experience, he has managed numerous large scale electoral programs; acting as a senior advisor and providing assistance to electoral institutions in many countries including Bosnia and Herzegovina, the Palestinian Territories, Nepal, Pakistan and, currently, Indonesia.

In between these longer assignments Erben has been utilized throughout the world; participating in and leading electoral missions to Egypt, Libya, Burma/Myanmar, Lebanon, the Philippines, Iraq, Bangladesh, Sri Lanka and other countries.

Over the past 18 years, he has been deeply involved in the holding of 16 high profile elections in 8 different countries and has made significant contributions to strengthening the democracies of other nations.

In 2005, the former King of Afghanistan, Mohammed Zahir Shah, awarded Erben the Ghazi Mir Bacha Khan Superior State Medal for his contributions to Afghanistan. In 2008, Queen Margrethe II of Denmark knighted Erben for his contribution to furthering democracy around the world. He graduated from the Copenhagen Business School.

Ben Goldsmith, Senior Electoral Advisor

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Ben Goldsmith is a senior electoral advisor with over 10 years of experience advising and managing election administration projects in post conflict and developing democracies. Goldsmith currently serves as IFES' Chief of Party in Kosovo. He manages the implementation of an electoral assistance program directed at the Election Commission of Kosovo and Kosovo civil society

Goldsmith has helped to conduct elections in Bosnia, Kosovo, Afghanistan, Iraq and the United Kingdom, including serving as the Deputy Chief Election Officer for the 2005 National Assembly and Provincial Council Elections, and has provided technical assistance in Georgia, Egypt, Lebanon, Nepal and Pakistan.

Prior to IFES, Goldsmith held electoral roles with and on behalf of the UK Foreign and Commonwealth Office, the Organization for Security and Cooperation in Europe, the International Organization for Migration, the United Nations and International Non-Governmental Organizations such as The Asia Foundation. He holds extensive experience in a number of different regions, including Europe, South Asia and the Middle East, and has managed projects in over 20 countries.

Goldsmith holds two master's degrees from the University of Bristol: a M.Sc. in International Relations and a L.L.M. in International Law. Goldsmith has published numerous articles on elections, out of country voting and Central Asian politics.

Aysha Shuaat, Out of Country Voting Expert

Aysha Shuaat is an out-of-country voting expert and an electoral professional who focuses on supporting democratic institutions in post-conflict and developing democracies. She has over eight years of experience working with national and international institutions in South Asia, Middle East and Africa.

Shuaat has been involved in organizing and conducting five of the most significant out-of-country voting projects in recent times including, South Sudan, Iraq and Afghanistan. Recently she was the Deputy Country Coordinator in Kenya for the International Organization for Migration's out-of-country voting mission in support of the Southern Sudan Referendum. Prior to this, she was associated with IFES Pakistan where she worked effectively as the second deputy on the project and the chief of staff of the organization. Over the years she has been involved in various electoral missions, managing large scale operations and multi-national teams during her assignments.

Shuaat holds a Masters in Political Science and is a BRIDGE certified trainer.

NOTE

A number of the website links quoted in the paper, *Out-of-Country Voting: A Brief Overview* are now not operational. The following are the current links to these documents:

1. International IDEA, Voting from Abroad - The International IDEA Handbook, 2007.

The book examines the theoretical and practical issues surrounding external voting and contains case studies 20 different countries.

Available at: <http://www.idea.int/publications/catalogue/voting-abroad-international-idea-handbook?lang=en>

3. Council of Europe (Venice Commission), Report on Out-of-Country Voting, 24 June 2011. This paper studies the issue of OCV with an emphasis on procedures and practices in European states. Available at:

[http://www.venice.coe.int/webforms/documents/CDL-AD\(2011\)022.aspx](http://www.venice.coe.int/webforms/documents/CDL-AD(2011)022.aspx)

5. Goldsmith, B., Out-of-Country Voting in Post-Conflict Elections, ACE Electoral Knowledge Network, 2005.

The paper expands on the experiences of recent OCV missions in Iraq and Afghanistan. Available at:

<http://aceproject.org/today/feature-articles/out-of-country-voting-in-post-conflict-elections>

8. IDEA, Voting by Mail. The IDEA Technical Paper Series for Election Administrators, 1999.

The paper outline elements, rational, merits/demerits and operational aspects of E Voting using example from various countries. Available at: http://www.oldsite.idea.int/vt/upload/voting_by_mail.pdf

10. Council of Europe (Venice Commission), Out of Country Voting Legal Provisions, 6 October 2010.

This paper contains listing of legal provisions for OCV in member European states. Available at:

[http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-EL\(2010\)013rev2-bil](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-EL(2010)013rev2-bil)

13. Electoral Commission (U.K.), Absentee Voting in Great Britain: Report and Recommendations, March 2003.

Available at: <http://www.electoralcommission.org.uk/>

