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The voting rights of non-Dutch nationals in municipal elections

1. Background

Until 1983 only Dutch nationals were entitled under the Constitution to participate in elections to general representative bodies. The revised Constitution of 1983, however, provides in article 130 (annex 1) for legislation to be passed granting non-Dutch residents the right to vote and to stand for election in municipal council elections, provided that they satisfy at the very least the same requirements imposed on Dutch nationals. The relevant legislation was amended accordingly in 1985. Given that most of the matters dealt with in municipal council meetings affect all the local inhabitants equally and not just Dutch nationals, it was considered important that non-Dutch residents should be given a say in political decision-making at municipal level by having the right to vote in municipal elections and to be elected to municipal councils.

2. Regulations governing the voting rights of non-Dutch residents

The conditions under which non-Dutch residents may vote in municipal elections are set out in section B3 of the Franchise Act (annex II). First, they must satisfy the requirements laid down for Dutch voters. In other words, they must be living in the municipality in question on the day on which the candidates are nominated and they must be aged 18 or over on polling day; persons who have been barred from voting by order of a court - this is very rare in practice - or have been declared by a court to be *non compos mentis* may not vote (section B5 of the Franchise Act). Two additional conditions apply to non-Dutch residents: they must have been living in the Netherlands for a continuous period of at least five years prior to the day on which the candidates are nominated and they must have a valid residence permit. Non-Dutch residents who are working in the Netherlands for another state, of which they are a national, and their spouses and children, if living in the same household, are not entitled to vote.

Section 21 of the Municipalities Act (annex III) states that anyone aged 18 or over who is resident in the municipality concerned and who has not been barred from voting or standing for election may become a member of a municipal council. Non-Dutch residents must, in addition, comply with the same two conditions outlined above, namely they must have been living in the Netherlands for at least five years (prior to the date of nomination) and must have a valid residence permit.

3. Registration of non-Dutch residents

The burgomaster and aldermen are responsible for keeping a permanent record of all those residing in their municipality who are entitled to vote. This is done automatically: voters do not have to register individually. In order to establish who is entitled to vote, it is necessary to know how old a person is and whether they have been barred from voting. This is a very straightforward process: the names and ages of all those resident in the municipality are readily obtainable from the municipal population register, and the town hall is automatically notified by the courts whenever a person is disenfranchised. As for the matter of how long a non-Dutch national has been living in the Netherlands and whether they have a valid residence permit, this information is supplied by the aliens department of the local police station. Under the terms of the Franchise Act, the head of police (the senior police officer in the larger municipalities and the burgomaster in smaller municipalities) is obliged to inform the burgomaster and aldermen whenever a residence permit is granted or withdrawn from a non-Dutch national.

4. The municipal elections of 1986 and 1990

Non-Dutch residents were able to vote for the first time in the municipal elections of 1986. Around 46% of the 270,000 non-Dutch nationals entitled to vote (approximately 2.8% of the total electorate) actually voted. The turnout among the Dutch electorate was over 73%. As far as is known, 35 non-Dutch

nationals were elected as councillors among a total of 11,464. No information is available on the turnout of non-Dutch residents in the 1990 municipal elections, although there is nothing to suggest that it was either significantly higher or significantly lower than in 1986. The turnout among the Dutch electorate was 62%. 28 non-Dutch nationals are understood to have been elected to the council, compared to a total of 11,071.

Both elections were preceded by an extensive public information campaign under the motto "Live together, vote together", which included television slots and pamphlets in several languages (annex IV). No particular problems arose in either year regarding the granting of voting rights to non-Dutch nationals.

5. Exclusion of non-Dutch residents from provincial and national elections

When the Constitution was revised in 1983, the question arose of whether provision should be made for non-Dutch residents to be granted the right to vote and stand for election in elections to the provincial councils and the Lower House of Parliament. This idea was rejected by the government and by a majority vote in the Lower House. It was felt that the right to participate in national elections was much more closely intertwined with the concept of nationality than was the case at local level. Non-Dutch residents have links with the country of which they are nationals as well as with the Netherlands. It was therefore considered inappropriate that foreign nationals should have a say in decision-making at national level, given that this extends to such matters as foreign policy and defence, and it was decided that no provision should be made for granting them the right to vote in parliamentary elections or stand for election to Parliament. Since the Upper House of Parliament is elected by the members of the provincial councils it was likewise considered inappropriate, for the same reasons, to provide for non-Dutch nationals to participate in the provincial elections.

When the question of extending the voting rights of non-Dutch nationals was

recently raised in the Lower House, the government informed the House that it did not intend to take any steps in this direction. There are, however, plans to make it easier to obtain Dutch nationality by dropping the requirement that the applicant give up his original nationality. Dual nationality will therefore become more common.