
Iván Halász

The boundaries of citizenship and communities in present-day Hungary

Abstract

Historical changes had modified the concept of Hungarian citizenship. In modern times it could be politically or culturally defined. With the events at the turn of the millennium and Hungary's accession to the European Union it has become necessary to revise both the conditions of citizenship and the regulations of suffrage.

Major tendencies and characteristics in the development of Hungarian citizenship

The development of modern Hungarian citizenship can be dated from the time of the dualism, (since 1867 to the end of World War I.), though the concept of belonging to the country is much earlier. The membership of the Holy Crown defined the membership of the Hungarian political community before the bourgeois era. Hungarian citizenship as a status was first defined by Law 1879.I. that remained in power – with considerable modifications – till 1949.

Until then the Hungarian domiciliation was used in the function of citizenship. This could be obtained by being born in the country (by the principle of *ius sanguinis*), by naturalization and by the so-called implied/tacit way. Naturalization appeared first in Law 1542.L. in the Hungarian jurisdiction.¹ Though it was not a fundamental requirement of the foreign applicant to be a nobleman to become a member of the Hungarian Holy Crown, later practice and the existing lists of naturalized persons indicate that foreigners applying for *indegenatus*

¹ Kisteleki Károly: Az állampolgárság a dualizmus idején. Állam- és Jogtudomány. XXXVIII. 1996-1997. p. 38. [citizenship in the time of dualism]

had been noblemen in their original country.² Later the process of naturalization was provided by several statutes and their modifications. Non-noble persons could become citizen/subjects by being patriots without nobility, This was the implicit/tacit way which could be realized by settling down in Hungary, or – by long term residence of undefined length in the country with being entered in the list of taxpayers of a town or township, or by holding a public office.³

The history of the documents proving citizenship in the bourgeois era started during the reform period diets when the question was discussed, however, nothing was approved. In 1853, after the Hungarian War of Independence, the regulations of the *Austrian Civil Code* concerning personal rights of citizenship were introduced in Hungary, too and it became of legal force. In 1868 Boldizsár Horváth minister of justice prepared a bill, however, it was never appeared on the agenda. In accordance with the general European trends the question became ready for regulation in 1879, at the time citizenship became settled by law in several countries.⁴

The first Hungarian law on citizenship was the result of long and eloquent debates with the participation of only a fraction of the members of the parliaments. The topic of the debate was the complicated relationship between Hungary and Austria as well as the clause of the law which ruled that ten years absence from the country would result in the loss of Hungariancitizenship.⁵ The opposition of the period regarded the regulations as an open attack on the part of the government against the emigrants of 1848 and radically opposed the Act. Lajos Kossuth lost his Hungarian nationality ‘thanks’ to this clause.

The statute accepted treated citizenship in terms of public law, kept the principle of *ius sanguinis* and started out of the equality of nationality status. Foreigners could obtain citizenship through a nationalising process belonging to the discretion of the Hungarian authorities. Every citizen had to belong to the community of a settle-

² Ibid. p.38.

³ Ibid. p.41.

⁴ Ibid. p.43.

⁵ As a prevention a declaration of legal reservation had to be made at a Austrian-Hungarian embassy; otherwise after returning to the country there was the possibility of re-nationalisation by gaining residence in a settlement.

ment independent of actual residence. This communal right of citizenship was of legal importance for every citizen's status.

In regards of the political rights accompanying citizenship the equality of citizens was not realized, because suffrage in the time of dualism was attached to census. The statutes made certain difference between native and nationalized citizens. The latter could be voted into the Lower House only after ten years, into the Upper House by special act and could not become keepers of the crown. If the king nationalised someone for his merits by special deed he was immediately eligible to be voted in to the parliament.⁶ There was one more restriction expressed in Statue 1874.xxxiii, i.e. the precondition of passive suffrage was the knowledge of the Hungarian language, as it stipulated that those could be voted for who could fulfil the requirement that specified that the language of jurisdiction is Hungarian. There was no such criterion in the case of active suffrage and apart from the above mentioned one there was no difference between native and naturalized citizens.

At the time Hungarian citizenship could be forfeited not only by permanent absence but also by entering service of another country without the permission of the Hungarian authorities and if the person was not ready to leave it in spite of official request. At the same time the law recognized dual or multiple citizenship. There are such restrictions occurring in some present effective nationality laws, too.

The nationality laws of the liberal dualist era differ in several aspects from present day democratic rulings in Hungary since 1989. One is that citizenship could be lost for several reasons, most importantly that it could be independent of the person's own will; the possibility of dual nationality is an aspect shared by the two rulings.

The main problem is that between the two rulings there was the complicated 20th c. full of vicissitudes; there were several modifications of the nationality law and also a new one was also created. The common denominator of the 20th c. modifications is that political tendencies lay in the background. Károly Kisteleki, the expert of the topic has pointed out that the political measures were taken for two purposes – on the one hand discrimination against those opposing the

⁶ Ibid. p.50.

system or indemnity as a counter measure on the other.⁷ Indeed the Hungarian regulations were between these two angles. The restrictive and discriminative measures increased in the 1930s as part of the first discriminative, later annihilating policy especially against Jews. In the post 1945 years the system tried to use the nationality regulations for different aims but in a similar discriminative way.

The regulations after 1990 have introduced a new element that of *Hungarian descent* and persons with Hungarian ancestors were given preference. In the present nationality law Act 1993.LV that regulates the cases of the origin, acquisition and discontinuation of Hungarian citizenship, where the elements of cultural nation concept are described in the part regulating the preferential acquisition of citizenship. Legislation makes accessible preferential naturalisation for those too – among other cases – who claim to be Hungarian nationals, live in Hungary and have Hungarian ancestors.⁸ The conditions are not operating either/or but are collectively compulsory requirements. It is therefore not enough to claim to be of Hungarian nationality but have to have Hungarian citizens among the ancestors.⁹ On the hand the complex conditions work the other way round too. The descendants of past Hungarian citizens can ask for preferential naturalization claiming to be Hungarian. This is a step away from the law on citizenship of 1957 which was satisfied when the applicants had Hungarian citizens among their ancestors. It can be claimed that after 1993 the cultural – linguistic nation concept has been strengthened in the nationality law.

When it is about the cultural concept of the Hungarian nation it has to be clarified how the effective regulation define Hungarians. The practice developed during the 1990s and the relevant laws made after the turn of the millennium¹⁰ have followed the liberal traditions

⁷ Kisteleki, Károly: Magyar állampolgárság a XX. században. [Hungarian citizenship in the 20th c.] Állam- és Jogtudomány. XLI. évf. 2000. 57. o.

⁸ Other European countries also use preferential treatment nationally, and sometimes go further than Hungary. In France those are preferred who belong to the French linguistic and cultural community if they are living in a country with French as the official language. Portugal secures preferred naturalisation not only to ex Portugal citizens but also their descendants, as well as those who live in communities with Portugal ancestors. www.eokik.hu

⁹ The strict application of the rule allowing no exceptions would cause difficulties such communities – like the Csángó Hungarians – whose members were never Hungarian citizens formally, not in the last three-four hundred years.

¹⁰ Laws 2001. LXII and 2005. II.

developed in the 19th c that being Hungarian is a question of pledge. Similar to the case of the minorities in Hungary, the regulation in effect operates with special, mainly linguistic restrictions in the free choice of identity on the part of Hungarians residing abroad. The so-called 'status law'¹¹ refers to the Hungarians who live in the listed neighbouring countries and are not Hungarian citizens but claim to be Hungarian by nationality including their spouses and children raised in the common household, provided international agreements do not rule against it. Thus the Status law regards a person Hungarian who claims to be Hungarian, speaks the Hungarian language or is registered as such abroad where he plays an active part in the life of Hungarian communities and has a membership certificate to prove it. These are relatively open and liberal conditions which satisfy the so-called recipient Hungarian cultural nation concept¹² concentrating on linguistic and cultural attachment. It is interesting to note that because of certain maltreatments the Hungarian national and ethnic minority laws also introduced similar restrictions which are a step away from the earlier concept that was satisfied with a simple declaration of identity. All this, however, does not mean the victory of ethnicity within the cultural nation concept.¹³

This part of the effective nationality regulations can be regarded as measures of recompense originating in national solidarity. The notion can be noticed in common political debates, e.g. the one before the referendum on dual nationality that has not really been concluded. The problem is that in the concept of the Hungarian nation there is a strong mixture of political and cultural elements (see below). It is difficult to separate the question of citizenship from the problem of dominant cultural nation concept. The debates before the December 2004 referendum revealed that a part of the Hungarian public regards citizenship as a means of minority protection misguidedly.

¹¹ Law 2001. LXII on Hungarians officially living in the neighbouring countries.

¹² Unfortunately there were decades in the Hungarian history, e.g. the regulations against Jews during World War II., when the recipient approach was not enforced.

¹³ The preambulum of the modified Satus Law tries to approach the essence of the Hungarian nation through the attachment to the Hungarian cultural heritage.

The concept of nation in Hungarian history and jurisdiction

Since the regulation of Hungarian citizenship is dependent on the question of the concept of nation that has been permeating the entire jurisdiction it must briefly be treated. The concept of nation behind the regulation of citizenship has never been a simple question. The reason is that before 1918 Hungary was never an ethnically homogenous country, and before 1910 non-Hungarian citizens were in majority. Therefore the question of nationality became one of the most vital problems in contemporary Hungary. The situation was further complicated by the prevailing conception of national liberalism in 19th c. Hungarian public opinion that aimed at developing Hungary from a old fashioned feudal state into a modern constitutional nation state. At the mean time the actual ethnic composition of the country had to be taken account, as well as the interests of society, of the estates and minor nobility. It all created ambivalence especially in the period following 1867 when Hungarian liberals were in power for a long time. The best Hungarian politicians, e. Ferenc Deák, József Eötvös, etc. tried to create a Hungarian political nation concept based on personal rights that also considered the multi-linguistic character of the country. This was reflected in the preamble of the nationality law in 1868 and the various regulations of the statute. At the same time they did not want to allow for the division into national autonomies, or as they preferred to express the ‘federalization’ of the country on its way to modernization. The regulation of citizenship mirrored this approach.

Development, however, took a different turn in the 1870s, influenced by the processes characteristic of contemporary Europe, and the assimilation of the ethnic nationalities became the issue. It did not prove successful and together with other problems, led to the collapse of the state in 1918-1919. It must be added that in spite of Magyarization the Hungarian state in the time of dualism still kept close to the liberal minimums decreed earlier and on the level of jurisdiction and nationality there were no attempts at dealing with the question on ethnic level in spite of the already existing trends.¹⁴

¹⁴ Gyurgyák János: *Ezzé lett magyar hazátok. A magyar nemzeteszmé és nacionalizmus története.* Osiris. Budapest, 2007. [the history of the Hungarian concept of nation and nacionalism].

The situation drastically changed after 1919 when the population and the political elite underwent traumas. After the two world wars, though gradually, but irresistibly began the change from the earlier open Hungarian concept of nation to an ethnic one. The strengthening of a cultural-linguistic nation concept instead of the earlier officially accepted concept of political nation-state was understandable in a country that had developed homogeneous in its language and culture and which had large kin-nations outside its borders. It would have been preferable if Hungarian nationalism had preserved the open nation concept that developed in earlier periods based on the acceptance of the Hungarian language and culture, partly to facilitate the assimilation of the masses of nationalities. In consequence of the historical cataclysms and domestic political debates the intransigent nationalism became more vigorous and left the standpoint of acceptance and moved toward exclusion. That was a long almost 25 year process that led to the tragedy of 1944-45. Exclusion was directed against the Jews first started at home but later expanded especially under the influence of German Nazism. Independently German inhabitants spontaneously following the German idea of *Volk* started a dissimilative process that strengthened in the 1940s. The first development led to the Holocaust, the second to the deportation of the Germans of Hungary.

In 1944 was culmination of the Hungarian ethnicist nation concept that in some of its manifestations was racist at the same time and that had to be handled after World War II. The communist dictatorship definitely grabbing the power in 1949 did not choose to handle the problem but tried to shove it aside. Nation as a concept became taboo for a long time. It is true, geopolitical factors had a hand in it since Hungary became part of the Soviet block with fairly restricted room for manoeuvre. The officially internationalist Eastern European Socialist camp, in reality part of a Soviet empire, itself an ethnically multinational composition busy with its own functioning, allowed low-key manifestations of the national sentiment only.

Between 1949 and 1989 the cultural and political characteristics of the nation concept re-appeared. When considering the above mentioned geopolitical circumstances – the effects of the Holocaust, the deportation of Germans and the Hungarian – Slovakian population exchange – Hungary became such an ethnically homogeneous

country it had never been before. At the same time the preference of the concept of nation state was practical considering the Hungarians living in minority in the neighbouring countries, the aftermath of the tragedy of 1944 and it suited the Soviet expectations. This was reflected in the regulations of nationality mentioned above when the reason a person could be naturalized was not because s/he was a Hungarian national but because the ancestors were Hungarian citizens. The concepts began to converge resulting in – not always negative – consequences for present practices. Gradually, silently and in many respect not enough effectively the nation concept of combined jurisdiction has developed after 1989. After the change of system the careful, still legitimate strengthening of the cultural – linguistic concept could be observed especially in connection to the Hungarians outside the border and the national minorities within the country.

The nation concept of the current Hungarian jurisdiction

The modern Hungarian democratic jurisdiction recognizes dual concepts of nation – political and cultural. The latter is only complementary in character and mainly functions externally, beyond the borders and for the Hungarian Diaspora;¹⁵ within Hungary it has relevance only in connection to the national and ethnic minorities. The Hungarian state does not accept any other ‘cultural nation building’ tasks.¹⁶ It is important to note that the cultural concept of nation is truly cultural and language based, therefore has become fairly open; it is a positive feature that should be stressed and preserved. As long as the bases remain so open and flexible it is morally justifiable. It is also important to point out that the two concepts should not be obfuscated in jurisdiction because that would seriously influence the operation of Hungarian jurisdiction and endanger democratic legitimacy. On the other hand it is undeniable that historical reality does

¹⁵ Hornburg, Helge: A nemzet fogalma a magyar jogrendszerben, különös tekintettel a szomszédos államokban élő magyarokra. In: A magyar jogrendszer átalakulása 1985/1990-2005. II. kötet. Red. Jakab, András – Takács, Péter. Gondolat – ELTE ÁJK. Budapest, 971. p. és Matjényi Balázs: Hol húzódnak a kisebbségvédelem határai? REGIO 2004. č. 4. [the concept of Nation in the Hungarian jurisdiction especially concerning the Hungarians living in the neighbouring countries.]

¹⁶ cf. Iván Halász’ intervention in *Fundamentum* 2006. 2. 65-73. p.

not allow for a watertight separation of the two concepts in the area of Central Europe.

The situation has been complicated after the turn of the millennium; there were hot debates about the considerable extension of citizenship for the members of the Hungarian cultural life living abroad; that meant a return back to the cultural nation concept. The debate reached its peak in the referendum in December 2004. During the debates over the 'status law' there were appeared ideas of *national reintegration*; Hungary is alone with the dilemma, it is enough to refer to the Italian model of citizenship or to the Portuguese attempts. It seems that the failure of the referendum over dual citizenship has halted the process in Hungary. In 2005 Prime Minister Ferenc Gyurcsány representing a section of the Hungarian political elite firmly stated that though he felt responsible for the Hungarians living in the neighbouring states and wished to help them in various ways, he did not want to mix up Hungarian political community with the reintegration of the Hungarian cultural nation. One of the most important documentation of this resolutions is the prime minister's letter written to the political leaders of the Hungarians the neighbouring countries dated the 6th of January 2005.

In his letter the Prime Minister differentiated clearly between the responsibility of the Hungarian state toward the Hungarian citizens as the constituents of the *political nation of Hungary* and the *entirety of the Hungarian nation*. Both responsibilities are different in content and the government wants to preserve this difference in the future too. Moreover, the letter of the Prime Minister, which of course is not a jurisdictional document only a political one, expresses that citizenship assumes an active relationship between state and its citizens. According to the letter, in this relationship the key roles is played by the balance between rights and duties: participation in everyday life and public affairs, continuous residence in the country, tax paying, practicing public rights, etc. To practice the rights and fulfil the duties toward the country are concepts inseparable from one another. Thus it follows in his opinion that the extension of Hungarian citizenship is impossible without settling down in the country.¹⁷ From this expo-

¹⁷ Gyurcsány Ferenc miniszterelnök 2005. január 6-i levele a határon túli magyar politikai vezetőkhez. www.magyarorszag.hu [letter of Prime Minister Ferenc Gyurcsány to the leaders of Hungarians abroad].

sition it is unambiguous that without settling down in Hungary there is no possibility to get Hungarian citizenship. The above document regards the Hungarian nation as a cultural and historical category; at the same time as a community, too, that can call for the help and support of the mother country – especially in case of trouble.

Citizenship and the Hungarian political community

When proceeding from the problem of the nation concept of the Hungarian constitution to the designation of the limits of the political community or ‘constitutional nation’ it has to be born in mind that these concepts need reassessment and adaptation to the challenges of the times. Defining *people/nation* or *political nation* the difficulty lies in the change of the composition of the nation compared to the situation before 1989. Before 1989 *nation* was the entirety of Hungarian citizens. In 1989 when the modified constitution gave all the power of the Hungarian Republic into the hands of the nation, the situation was already somewhat different. In earlier periods Hungarian citizens could only elected members of the parliament and municipality representatives and there were no minority elections at all. The 1989 amendment and the consecutive amendments of suffrage made possible that persons settled down in Hungary, immigrants or refugees and, after 2004, EU citizens living and domiciled in Hungary had the vote in municipal elections.

The concept of *people* has thus shifted away from the strict and clear basis of citizenship. At the national level most important for popular sovereignty it is still the adult Hungarian citizens who exercise power but at municipal level or at the EU elections “people” has received a wider meaning. At municipal level Article 42. of the constitution defines the subjects of municipal power: ‘The enfranchised citizens of the villages, towns, of the capital city and its districts, and of the counties are entitled to the right of local self-government. Local self-government means autonomous and democratic management of local affairs by the communities concerned and exercise of local public authority in the interest of the population.’¹⁸ To clarify the concepts, according to the constitution the following political

¹⁸ mkab.hu/en/enpage5.htm

communities can be enumerated in the democratic Hungary of today: at national level the *people*, the possessor of all the power exercising sovereignty through elected representatives or directly (Constitution §2.2.), at the middle level the *county voter communities* and at the municipal level (villages, towns, capital city and its districts) the *local voter communities*.

The next important question is how to describe the present Hungarian political community, especially from the stand- point of citizenship and franchise. The following can be stated about the actual political legal content of the Hungarian citizenship: in the question of franchise there is a constraint to domicile in Hungary. At the same time and somewhat contradicting the statement before, the equality within the state of citizenship is consistently enforced, since the Hungarian regulation does not make any difference between native and naturalized citizens neither between single and dual citizenship holders in the definition of the conditions of public and administrative positions.¹⁹ This is not the generally accepted, there are countries where dual citizenship holders are ruled out of certain positions and only native citizens can apply for the most important public positions (e.g. the president of the USA). According to the effective Hungarian constitution there are two important groups of subjects: 1. *every individual*, or *everybody* independent of nationality and domicile and 2. *Hungarian citizens*. In addition there is the group of non-Hungarian citizens who are persecuted in their native country or are in danger of being so and who can gain *refugee* status in Hungary. The statute also specifies the *citizens of other EU states with Hungarian domicile*, the *immigrants*, refugees and other *people settled in the country*. There is a section where the constitution specifies the group of *foreign nationals who are lawfully staying in the country*. These groups will be treated below especially in connection of their right to vote.

Most human and public right (right to human life and dignity, freedom and personal security, etc.) as well as liberty is everybody's due. Hungarian citizens are especially entitled to political and participation rights. With the help of a word by word interpretation of the text of the constitution there can be two groups differentiated

¹⁹ There is one difference: while native citizens cannot be deprived of their citizenships, naturalized ones can if they had obtained it by fraud.

within the community of Hungarian citizens: those with domicile in Hungary and other persons defined as Hungarian citizens without specification. To this group both citizens with or without Hungarian domicile can be included.

The constitution reserves all the political participation rights – franchise – for the first group, i.e. resident citizens, exclusively independent of its level of exercise. Even the right at the elections of EU representatives is bound to domicile for all Hungarian citizens.²⁰ The right to public office is bound to Hungarian citizenship i.e. domicile in the country is not a requirement.²¹ Article A70/H 1. declares that ‘All citizens of the Republic of Hungary have the duty to defend the homeland’ but the next paragraph regulates that only national men of age with Hungarian domicile can be conscripted. Probably it has practical reasons, those living outside of the country could be called up with difficulty. There is no gender specification given at the obligation to civil and military work, the other conditions being the same. Payment of public dues is obligation of every natural person, corporation and unincorporated organizations, not only the duty of Hungarian citizens.

To return back to the Hungarian citizenship rights the regulations expressed in Article 69 of the Constitution has to be underlined. Together with the right of participation and the obligations of defence of the country this represents the expression of the essence of citizenship status. According to Article 69: ‘In the Republic of Hungary no one may be arbitrarily deprived of his or her Hungarian citizenship, nor may any Hungarian citizen be expelled from the territory of the Republic of Hungary; a Hungarian citizen may always come home from abroad; and during a legitimate stay abroad every Hungarian citizen is entitled to protection by the Republic of Hungary. These are all rights that are strictly reserved for Hungarian citizens that they can eventually assert against the state.

There are two more rights somewhat illogically bound to citizenship: according to Article 70/E.1. ‘Citizens of the Republic of Hungary have the right to social security. In case of old age, illness, disability, being widowed or orphaned, and in case of unemployment for no fault

²⁰ Cf. Article 70.4 of the Constitution.

²¹ Cf. Article.70.6.

of their own, they are entitled to the provisions necessary for subsistence'; and Article 70/F.1. declares that 'The Republic of Hungary ensures for its citizens the right to culture', too.

Other rights bound to citizenship follow from further regulations of the constitution and other statutes. Thus e.g. such a person can be elected president of the republic who has the vote and turned 35 years of age till the day of the elections.

Judith Tóth has collected a concise and detailed identification of the titles bound to Hungarian citizenship and especially to domicile in Hungary.²² The definitions of the right to citizenship bound to domicile in Hungary are not necessarily uniform, which Tóth explains by inaccurate and arbitrary dealing on the part of the legislators.²³ She has collected 44 items of public and official positions, rights and titles bound to Hungarian citizenship. Those relevant to the present paper are the assignments of the president of the republic, Constitutional Court judges, ombudsmen, leading statesmen (minister president, ministers, and secretaries of state), monetary council members, Hungarian National Bank supervisory board members, judges, attorneys, notaries, members of military and police forces, civil servants, as well as scrutineers inland and abroad.²⁴ There have been further 44 items collected of titles and possibilities connected to Hungarian citizenship and also require domicile in Hungary too. In some of these cases other persons share with Hungarian resident citizens. Such are e.g. municipality suffrage as it is not restricted to Hungarian citizens. In Hungary, similar to other modern democratic states, political communities can and must be divided into *several levels*. To put it in another way: Hungarian voters can participate in public matters in several different levels – as citizens of EU on *supranational level*, as Hungarian citizens with domicile in Hungary on *national level* and finally as county or settlement inhabitants on the so-called *subnational* (village, town or county) *level*.

The composition of the Hungarian political community assigned to the three levels has changed since 1989. Various voter groups belong to each of the levels. First of all it has to be described who are eligible to vote because the obvious answer that Hungarian citi-

²² Tóth, Judit: *Státuszjogok*. Lucidus Kiadó, Budapest, 2004. 46-61. o. [Status rights]

²³ *Ibid.* p.46.

²⁴ *Ibid.* pp. 48-51.

zens could be misleading in certain cases. Independent of its level, the most important characteristic of the Hungarian voting system is the requirement of domicile in Hungary. It is true for the elections of the members of the parliament too, as according to Article 70.1. of the Constitution “All adult Hungarian citizens residing in the territory of the Republic of Hungary have the right to be elected and the right to vote in Parliamentary elections, local government elections or minority self-government elections, provided that they are present in the country on the day of the election or referendum.” No one else has such rights; the parliament embodying and executing the principle of popular sovereignty and thus the whole national level is exclusively reserved for the citizens resident in Hungary.

The European – supranational - level is different. Not only Hungarian citizens resident in Hungary can vote and be elected but the citizens of age of other EU states domiciled in Hungary too. There is no difference between them where active and passive suffrage is concerned in accordance with the concept of the citizenship within the Union.

The situation is most complicated on the subnational level, at the self-governments of settlements and counties. It means certain simplification that legislation does not distinguish between local and regional levels. The Constitution, too, simply regulates local self-governmental elections without any specification. Even the (municipal) elections themselves are held at the same time, at the same polling stations, before the same committee. In most of the European countries the practice is considerably different because the municipal and midlevel elections are usually strictly separated.

Municipal suffrage is regulated by Article 70.2. of the constitution: ‘every major Hungarian citizen domiciled on the territory of the Republic of Hungary and every major citizen of another Member State of the European Union who is domiciled on the territory of Republic of Hungary is entitled to the right to stand as a candidate and, if they stay on the territory of the Republic of Hungary on election day, to elect in the election of the representatives and mayors of local governments. However, citizens of other Member States of the European Union shall not be elected mayor or the mayor of the capital city. In order to define passive suffrage, the regulation of Article 71.2. of the Constitution is necessary: ‘The members of the local government representative

bodies of counties shall elect the president of the representative body by direct, secret ballot. The president must be a Hungarian citizen.’ What follows of the above quotations? There are three groups of voters to be differentiated at municipal elections. First those who have complete, unrestricted active and passive suffrage. This group consists of Hungarian citizens of age domiciled in Hungary, since only they can occupy any office such as mayor and president of county assembly. The second group contains the voters who can vote and are eligible to be voted for, but are excluded from the above offices. They are the citizens of the European Union domiciled in Hungary. The members of the third group are foreigners settled in or immigrated to Hungary and (officially accepted) refugees who have active suffrage at municipal elections only. The literature also refers to this category as citizens of a third country.

There are two important additional consequences of the constitutional regulations quoted above. On the one hand right to vote depends on being of age and legislation makes no difference between the conditions of active and passive suffrage. On the other hand municipal suffrage is valid only in the territory of the country. The text of the constitution stresses several times that the voters can participate at the elections only if they are in Hungary at the date of it. In the case of the parliamentary elections there is no such restriction, as the Constitution is ‘silent’ on this question.

In spite of the ‘silence’ the restriction of the right to vote, i.e. the voter had to be present at his domicile at the date of the elections, was taken so seriously for a long time that the voter with the right to vote, if abroad on the date of the elections, could not vote at all because it was not possible either at the foreign representations or by post or any other way. Since the 2006 elections the situation changed. In accordance with the Act C.1997 on the election procedures Hungarian voters can participate in the elections by giving their votes at the embassies after having been entered into an electoral list. This is not the special list for expatriots but a special list allowing the participation in the elections for such Hungarian citizens with domicile in Hungary who are abroad at the day of the elections. It is not specified whether the person on such lists is a member of the diplomatic corps or has any other official business abroad, is a tourist or is a permanent Hungarian inhabitant at a long term job abroad. The

only condition is to be a Hungarian citizen with registered domicile in Hungary and to announce the wish to vote at a foreign representation. This kind of voting is possible if the receiving country does not oppose it and there is at least one applicant. The votes are counted together with the ones in the constituency in Hungary where the voters in question have their registered domicile.

To sum up the relationship between citizenship and the Hungarian political community and regard it in the European context, it can be observed that the Hungarian regulations are fairly open especially at municipal level as it does not restrict suffrage to the citizens of the European Union but allows citizens of third countries too, provided they have the required status in Hungary. In addition the Hungarian electoral regulations strictly require domicile in Hungary, which follows from the actual concept of political community in Hungary. This latter is a question of an individual – logical and justifiable – choice of the legislators not dictated by any outside factors or actors.