



Office for Democratic Institutions and Human Rights

# Frameworks for democracy: an overview of legal and political provisions for migrant political participation in the OSCE region

Research Paper



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### *Executive summary*

This paper reviews the legal and policy frameworks used in the OSCE region to govern and guide the civic and political participation of migrants.

The civic and political participation of migrants is more relevant now than ever, as migrants and their offspring constitute a growing social group in societies across the OSCE area. Only through participation, in one form or another, will this group be enfranchised and equal. Therefore, understanding if and also how different social groups participate is essential.

This paper provides an overview of the legal standards and commitments relevant to civic and political participation of migrants, including those provided by regional organizations such as the OSCE. The paper then continues to review policy frameworks and the varieties of participation which they provide for in different circumstances and countries.

The paper is intended to provide a useful and summarized overview and discussion of these legal and policy frameworks to guide policymakers, practitioners and activists working on migrant integration and on migrant participation as a key element within that field. The paper also aims to offer information relevant to those concerned with the establishment and strengthening of inclusive democratic systems.

# 1. INTRODUCTION

## *Background*

The Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) commissioned Thomas Huddleston, Policy Analyst with the Migration Policy Group, to write two background papers on different aspects of the civic and political participation of migrants in Europe. Intended primarily for the use of decision-makers and migration experts, and to contribute to planning and discussion at a roundtable discussion on migrant civic and political participation held on 14-15 November 2017, this paper provides an overview of existing international and European legal standards, political commitments and national policies in Europe, and annexes excerpts from international human rights legal instruments related to civic and political rights of foreigners. The second paper assesses the implementation and outcomes of political participation policies for migrants in the OSCE participating States, discussing indicators and factors relevant to this participation, and offering recommendations and a bibliography of existing comparative European research on policy implementation and migrant outcomes.

The paper is based on extensive desk research, including a literature review on relevant legislation and policies, and empirical research on migrant political participation, as well as analysis of relevant data retrieved from the Migrant Integration Policy Index (MIPEX), a database on migrant integration policies which includes a number of OSCE participating States. However, it should be noted that more information on this topic exists on parts of the OSCE region, in particular the European Union, where more recent research has been conducted on these issues and produced data available for analysis. This paper therefore attempts to cover the OSCE region as far as possible, but, as it is based primarily on review and analysis of existing available data sources on migrant civic and political participation, there is greater detail offered on more West European participating States.

## *Working definitions*

The IMISCOE<sup>1</sup> state of the art report identifies three components of migrant participation in public affairs:

- **Participation** (the active dimension of citizenship by which individuals take part both conventionally and non-conventionally in managing the affairs of a given community)
- **Mobilization** (the process of building collective actors and collective identities to take part in managing the affairs of a given community)
- **Representation** (not only the system by which a community selects a legitimate group of people to manage its affairs, but also the outcomes of that system—the extent to which this group of people and their views are a legitimate reflection of the community)

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<sup>1</sup> IMISCOE, or International Migration, Integration, and Social Cohesion, is an EU-funded Network of Excellence that brings together some 400 selected, highly qualified researchers of 22 established European research institutes.

These activities range, in the very least, from naturalization through to formal participation (volunteering, membership in trade unions, political parties, voting, consultation, elected office) and informal participation (petitions, protests, and community organizing).

### *Civic and political participation of migrants*

Participation of all members of society, including migrants, in the political decision-making process is crucial to the legitimacy of democratic political systems. Despite the increasing diversity of societies across the OSCE region, OSCE participating States continue to face challenges in facilitating migrants' political participation. Over the last three decades, the OSCE participating States have agreed to a large number of commitments in the field of political participation in democratic governance processes, including those related to the participation of migrants, such as:

- The obligation to respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination and the right of individuals and groups to establish their own political parties or other political organization; including the guarantee of the right of association and the right to freedom of expression including the right to communication<sup>2</sup>.
- The obligation to promote the integration of migrant workers in host societies of participating States, in which they lawfully reside, while encouraging their active participation in integration processes<sup>3</sup>.

The OSCE/ODIHR Guidelines on Political Party Regulation also highlight that while international obligations recognize nationality and citizenship as reasonable considerations in the restriction of political participation rights, human rights instruments applicable in the OSCE region provide foreign nationals and stateless persons with the same general protection of rights as they do citizens.<sup>4</sup> Further, in particular in the context of elections, the European Convention on the Participation of Foreigners in Public Life at the Local Level<sup>5</sup> can be seen as setting a standard within Council of Europe (CoE) member states which are in the OSCE region to allow foreign residents to vote and stand in local elections.

OSCE participating States have different approaches to political participation in terms of their legislation and policies, which provide a regulatory framework for the exercise of key rights as a pre-condition for political engagement, such as electoral rights, freedom of association as political parties, membership of and participation in political parties and others. These differences also apply to migrants' membership requirements for political parties and candidacy requirements.

Across the OSCE region, public participation in political and public affairs also varies. In general people are increasingly more involved in alternative forms of political participation and more detached from traditional democratic institutions such as political parties. Participation in political life through freedom

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<sup>2</sup> Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, Para. 7 and 9.

<sup>3</sup> CSCE Concluding Document of Budapest, Towards a Genuine Partnership In A New Era, 6 December 1994. ,Decisions, chapter VIII, Para.31).

<sup>4</sup> "Guidelines on Political Party Regulation," OSCE/ODIHR: Warsaw, 2011.

<sup>5</sup> <https://rm.coe.int/168007bd26>.

of association and freedom of expression or the formation of political parties should be based on the principle of non-discrimination in accordance with OSCE commitments<sup>6</sup>.

The political participation of migrants forms a core element of OSCE commitments both from the perspective of fundamental human rights such as the right to freedom of association and expression<sup>7</sup>, and the right to non-discrimination<sup>8</sup> as well as ensuring access of migrants to decision-making processes within political movements and trade unions<sup>9</sup>. The respect of these rights and migrants' ability to advocate as members of civil society and the media can serve to increase their integration in host societies and contribute to political stability in OSCE participating States. While the legislation and policies regulating political participation of migrants vary across the OSCE region, these differences, as well as the common obstacles these groups face when engaging in political life, merit discussion.

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<sup>6</sup> Participating States' commitments cover core principles, including the obligation to respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination and the right of individuals and groups to establish their own political parties or other political organization; including the guarantee of the right of association and the right to freedom of expression including the right to communication; Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, Para. 7 and 9. <<http://www.osce.org/odihr/elections/14304?download=true>>.

<sup>7</sup> 1990 Copenhagen document, *ibid* and Annex I.

<sup>8</sup> 2004 Sofia Decisions: Annex to Decision No. 12/04 on Tolerance and Non-discrimination; Permanent Council Decision No. 621: Tolerance and the Fight Against Racism, Xenophobia and Discrimination; <http://www.osce.org/mc/23133?download=true>.

<sup>9</sup> 1992 Helsinki, Decisions IV: The Human Dimension, (37-38); <http://www.osce.org/mc/39530?download=true>.

## 2. LEGAL STANDARD-SETTING

### *A. International law*

International human rights law, including the International Covenant on Civil and Political Rights<sup>10</sup> (see Annex 1) and the UN Migrant Workers' Convention<sup>11</sup>, does not discriminate based on nationality or legal status for that matter in nearly all areas of civic and political rights, with the major exception of electoral rights. International legal standards guarantee documented and undocumented migrants the rights to freedom of expression, assembly, and association, and trade union membership. These standards do not address whether or not migrants have right to vote in the elections of their country of residence as a non-national or in their country of origin as an expatriate. Any restrictions to these civic and political rights must be laid down in law, applied in a non-discriminatory manner, and limited to a specific set of grounds, which it is the state's heavy burden to prove as necessary for a legitimate and clear public interest in a democratic society<sup>12</sup>.

### *B. European law*

The European institutions have, since their founding, promoted the civic and political rights participation of migrants.

#### *a. Council of Europe*

The Council of Europe, with its emphasis on human rights, democracy, and the rule of law, has made the greatest and longest efforts to agree legal standards among its Member States through the adoption of European Conventions.

The European Convention on Human Rights<sup>13</sup> reinforces the right to freedom of thought, conscience and religion, freedom of expression and freedom of assembly and association, while permitting under Article 16 certain restrictions on the "political activities of aliens."

#### *Convention on the participation of foreigners in public life at the local level*

The European Convention that is most relevant and extensive for migrants' civic and political rights is the 1992 Council of Europe Committee of Ministers' "Convention on the participation of foreigners in public life at the local level"<sup>14</sup>. The Convention is divided into three chapters:

- Chapter A (obligatory for all signatory states): freedom of speech, assembly, association and the right to be involved in local public inquiries, planning procedures, and consultation procedures

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<sup>10</sup> <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

<sup>11</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx>.

<sup>12</sup> Rosa Da Costa, "Rights of refugees in the context of integration: legal standards and recommendations," Legal and protection policy research series, UNHCR: Geneva, 2006;

Ruma Mandal, "Political rights of refugees," Legal and protection policy research series, UNHCR: Geneva, 2003.

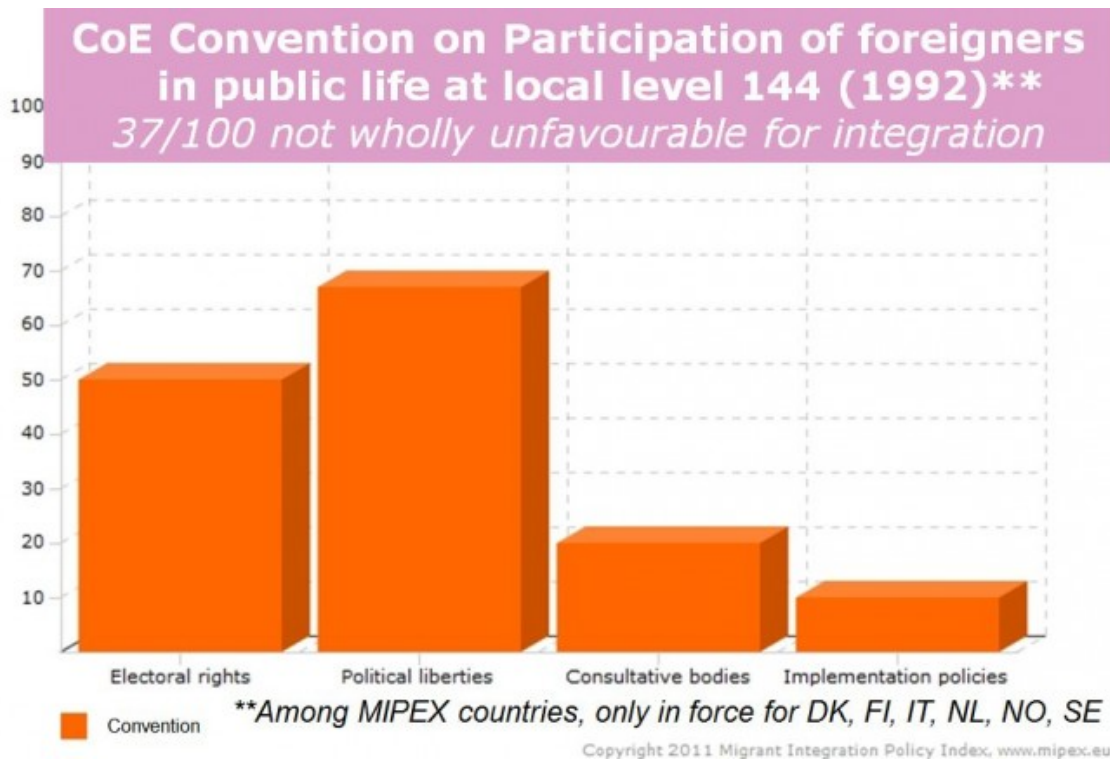
<sup>13</sup> [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf).

<sup>14</sup> ETS No. 144; <https://rm.coe.int/168007bd26>.



- Chapter B (opt-out option at moment of signature): obligation to encourage and facilitate local consultative bodies of foreign residents
- Chapter C (opt-out option at moment of signature): granting right to vote at local level after max. five years of residence (granting right to stand as candidates up to discretion of signatory states)

According to an unofficial MIPEX assessment in 2011, the Convention provides a basic foundation for migrant political participation, scoring 37/100 on the scale of the Migrant Integration Policy Index (MIPEX). Implementation of these standards would mean that national policy would not be wholly unfavourable for political participation:



Migrants would enjoy many political liberties, local level voting rights, the existence of consultative bodies—however weak—and some information on their rights.

The uptake of the Convention has been limited and slowing over time:

**Convention on the Participation of Foreigners in Public Life at Local Level**  
**CETS No.: 144**

Treaty open for signature by the member States and for accession by non-member States

**Opening for signature**

Place: Strasbourg  
 Date : 5/2/1992

Status as of: 27/10/2016

**Entry into force**

Conditions: 4 Ratifications.  
 Date : 1/5/1997

States	Signature	Ratification	Entry into force
Albania	9/6/2004	19/7/2005	1/11/2005
Cyprus	15/11/1996		
Czech Republic	7/6/2000	17/07/2015	01/11/2015
Denmark	5/2/1992	6/4/2000	1/8/2000
Finland	26/8/1997	12/1/2001	1/5/2001
Iceland	11/2/2004	11/2/2004	1/6/2004
Italy	5/2/1992	26/5/1994	1/5/1997
Lithuania	12/2/2008		
Netherlands	30/11/1994	28/1/1997	1/5/1997
Norway	9/8/1993	9/8/1993	1/5/1997
Slovenia	23/11/2006		
Sweden	5/2/1992	12/2/1993	1/5/1997
United Kingdom	5/2/1992		

Total number of signatures not followed by ratifications:	4
Total number of ratifications/accessions:	9

The impact of the Convention is also limited within the few signatory countries. Most signatories are from Western Europe. Italy opted out of Chapter C. Denmark, Netherlands, and Norway applied geographical limitations for island and overseas territories, while Finland is the only country to sign without any reservations. The Czech Republic more recently ratified the Convention however, the government submitted reservations to the entire Chapters "B" - Electoral Rights, and "C" - Consultative Bodies and therefore only acceded to the part regarding foreign nationals' rights to assemble, associate, and enjoy freedom of speech. Those rights are already guaranteed to foreign nationals in the country. Because the states that chose to ratify already had policies meeting the Convention's minimum standards, ratification has not led to more political rights for foreign residents<sup>15</sup>. Rather, the signatory states further secured the implementation of these rights at national level by taking on an international legal obligation to do so.

*Convention on the Legal Status of Migrant Workers*

The 1977 European Convention on the Legal Status of Migrant Workers<sup>16</sup> addresses the limited set of civic and political rights that structure the relationship between workers and their employer. According to articles 28 and 29, States should not only grant migrant and national workers the same right to organize to protect their economic and social interests, but also facilitate their equal participation in the affairs of the business.

<sup>15</sup> Harald Waldrauch, "Electoral rights for foreign nationals: a comparative overview," *ESF/LESC-SCSS Exploratory workshop: citizens, non-citizens and voting rights in Europe*, University of Edinburgh, 2005.

<sup>16</sup> ETS No. 93; <https://rm.coe.int/1680077323>.

**European Convention on the Legal Status of Migrant Workers**  
**CETS No.: 093**

Treaty open for signature by the member States of the Council of Europe

**Opening for signature**

Place: Strasbourg

Date : 24/11/1977

Status as of: 27/10/2016

**Entry into force**

Conditions: 5 Ratifications.

Date : 1/5/1983

States	Signature	Ratification	Entry into force
Albania	3/4/2007	3/4/2007	1/8/2007
Belgium	9/2/1978		
France	29/4/1982	22/9/1983	1/12/1983
Germany	24/11/1977		
Greece	24/11/1977		
Italy	11/1/1983	27/2/1995	1/5/1995
Luxembourg	24/11/1977		
Moldova	11/7/2002	20/6/2006	1/10/2006
Netherlands	24/11/1977	1/2/1983	1/5/1983
Norway	3/2/1989	3/2/1989	1/5/1989
Portugal	24/11/1977	15/3/1979	1/5/1983
Spain	24/11/1977	6/5/1980	1/5/1983
Sweden	24/11/1977	5/6/1978	1/5/1983
Turkey	24/11/1977	19/5/1981	1/5/1983
Ukraine	2/3/2004	2/7/2007	1/10/2007

Total number of signatures not followed by ratifications:	4
Total number of ratifications/accessions:	11

*Convention on Nationality*

The 1997 European Convention on Nationality<sup>17</sup> codifies principles and rules covering all aspects of nationality, from facilitating acquisition by long-term residents and recovery by former nationals to limiting grounds for withdrawal and statelessness. The fact that this first international treaty to tackle the acquisition and loss of nationality harmonized many of the grounds for losing it but only a few for acquiring it reflects the interest of its drafters at the time: to bind Eastern Europe, with its changing states and citizenships, to a rule-of-law order derived from prevailing Western European norms<sup>18</sup>.

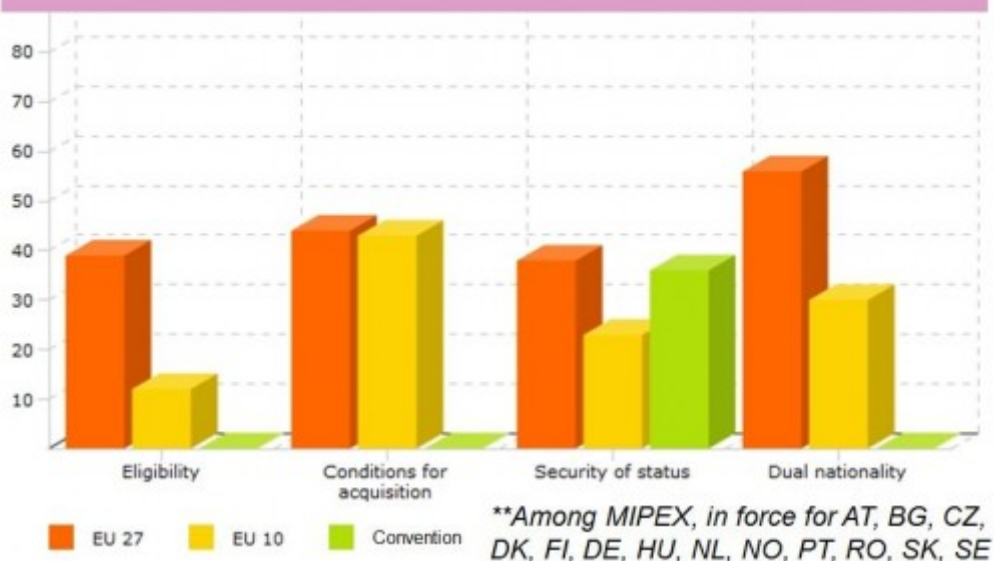
According to a MIPEX unofficial impact assessment, the current Council of Europe 1997 Convention on Nationality no.166<sup>19</sup> is unfavourable from the point of view of integration, scoring only 9/100:

<sup>17</sup> ETS No. 166.

Maarten P. Vink, and Gerard-René de Groot, "Citizenship Attribution in Western Europe: International Framework and Domestic Trends", *Journal of Ethnic and Migration Studies*, vol. 36, no.5, 2010, pp.713-734.

<sup>19</sup> <http://conventions.coe.int/Treaty/en/Treaties/Html/166.htm>.

**CoE Convention on Nationality 166 (1997)\*\***  
*9/100 'unfavourable for integration'*



The unofficial impact assessment suggests that the Convention’s provisions limiting administrative discretion, statelessness, and grounds for withdrawal would still slightly improve security of citizenship in 11 of the MIPEX countries, mostly in Central Europe. However its provisions on acquisition and facilitation have no effect on eligibility, conditions, or dual nationality.

The Convention has been ratified by an increasing number of states, which now stands at 20:

**European Convention on Nationality**

**CETS No.: 166**

Treaty open for signature by the member States and the non-member States which have participated in its elaboration and for accession by other non-member States

**Opening for signature**

Place: Strasbourg  
 Date : 6/11/1997

**Status as of: 27/10/2016**

**Entry into force**

Conditions: 3 Ratifications.  
 Date : 1/3/2000

States	Signature	Ratification	Entry into force
Albania	7/5/1999	11/2/2004	1/6/2004
Austria	6/11/1997	17/9/1998	1/3/2000
Bosnia and Herzegovina	31/3/2006	22/10/2008	1/2/2009
Bulgaria	15/1/1998	2/2/2006	1/6/2006
Croatia	19/1/2005		
Czech Republic	7/5/1999	19/3/2004	1/7/2004
Denmark	6/11/1997	24/7/2002	1/11/2002
Finland	6/11/1997	6/8/2008	1/12/2008
France	4/7/2000		
Germany	4/2/2002	11/5/2005	1/9/2005

Greece	6/11/1997		
Hungary	6/11/1997	21/11/2001	1/3/2002
Iceland	6/11/1997	26/3/2003	1/7/2003
Italy	6/11/1997		
Latvia	30/5/2001		
Luxembourg	26/5/2008		
Malta	29/10/2003		
Moldova	3/11/1998	30/11/1999	1/3/2000
Montenegro	05/05/2010	22/06/2010	1/10/2010
Netherlands	6/11/1997	21/3/2001	1/7/2001
Norway	6/11/1997	4/6/2009	1/10/2009
Poland	29/4/1999		
Portugal	6/11/1997	15/10/2001	1/2/2002
Romania	6/11/1997	20/1/2005	1/5/2005
Russia	6/11/1997		
Slovakia	6/11/1997	27/5/1998	1/3/2000
Sweden	6/11/1997	28/6/2001	1/10/2001
The former Yugoslav Republic of Macedonia	6/11/1997	3/6/2003	1/10/2003
Ukraine	1/7/2003	21/12/2006	1/4/2007

Contrary to the Convention No. 144, the Convention on Nationality has mostly attracted signatures from the Eastern European states, since many Western European states are now looking to guard their national discretion over their nationality criteria.

## *b. European Union*

### *Political rights...for all EU residents*

The Treaty of Lisbon amending the Treaty on European Union<sup>20</sup> and the Treaty establishing the European Community<sup>21</sup>, entered into force on 1 December 2009. While the Charter of Fundamental Rights<sup>22</sup> is not incorporated directly into the Lisbon Treaty, it acquires a legally binding character through Article 6(1) TEU, giving the Charter the same legal value as the Treaties. As a result, this facilitates EU co-operation on fundamental rights, specifically the political rights of all EU residents:

#### *Article 11: Freedom of expression and information*

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.
2. The freedom and pluralism of the media shall be respected.

#### *Article 12: Freedom of assembly and of association*

1. Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions for the protection of his or her interests.

<sup>20</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12007L%2FTXT>.

<sup>21</sup> OJ C 306, 17.12.2007; <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12002E%2FTXT>.

<sup>22</sup> [http://www.europarl.europa.eu/charter/pdf/text\\_en.pdf](http://www.europarl.europa.eu/charter/pdf/text_en.pdf).

*...for EU citizens*

The EU's current legal competence includes the granting of electoral rights to EU (but not non-EU) citizens. Local voting rights for EU citizens residing in another Member State is a discussion dating back to the 1970s that was driven by the interests of several European institutions in the concept of European citizenship and of Italy on behalf of its significant emigrant population in Europe<sup>23</sup>. These rights were granted under the same conditions as nationals in Article 19(1) of the 1992 Maastricht Treaty and are reaffirmed in Article 17(2) of the pending Lisbon Treaty. Council Directive 94/80/EC<sup>24</sup> specified that the residence requirement should be the same as for nationals. Directive 96/30/EC<sup>25</sup> added the exception to the residence requirement for countries where the proportion of voting-age EU citizens exceeds 20 per cent of the population (which only applies to Luxembourg). EU citizens' voting rights must be applied by any applicant country upon accession and extended to its own citizens abroad in other EU Member States. All EU Member States have to ensure that their national legislation conforms to an EU law, a process known as transposition that is regularly monitored by the European Commission.

*...for third-country nationals*

The EU currently lacks competence to grant voting rights to non-EU citizens, which is evidenced by their absence from the list of rights granted to non-EU long-term residents in Directive 2003/109/EC<sup>26</sup> as well as Lisbon Treaty Article 63a(4)'s exclusion of harmonization on integration:

[The European Parliament and the Council may establish] measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, *excluding any harmonisation of the laws and regulations of the Member States* (emphasis added).

Other civic and political rights have been guaranteed in EU law for third-country nationals. According to Article 11 sec. 1g of Directive 2003/109/EC, those non-EU nationals who can acquire long-term residence must be granted the same rights as EU nationals to freedom of association and representation in unions and professional organizations. These rights have been extended for future highly-skilled workers with an EU Blue Card (Directive 2009/50/EC<sup>27</sup>) and all migrant workers with the EU single work/residence permit directive (Directive 2011/98/EU<sup>28</sup>), but overlooked for reunited family members (Directive 2003/86/EC<sup>29</sup>). Where these rights are guaranteed in EU law, they must be applied in all EU Member States and candidate countries upon accession. Directive 2003/109/EC has been the subject of an EC-funded evaluation study conducted by the Odysseus Network in 2008. The research concludes that national legislation of the Member States appears to be in compliance with the Directive's provisions on the political and civic rights of long-term residents. However, although equal treatment is envisaged in most of the fields covered by Article 11, the national legislation does not always explicitly provide for

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<sup>23</sup> Kees Groenendijk, "Local voting rights for non-nationals in Europe: what we know and what we need to learn," Migration Policy Institute: Washington, 2008.

<sup>24</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31994L0080>.

<sup>25</sup> <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:31996L0030>.

<sup>26</sup> <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32003L0109>.

<sup>27</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32009L0050>.

<sup>28</sup> <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32011L0098>.

<sup>29</sup> <http://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex%3A32003L0086>.

equal treatment for long-term residents and it is suggested that further research is necessary to give a clear answer to the question of the extent to which equal treatment is granted to long-term residents in the fields relevant to Article 11. In a Communication on the application of the Directive<sup>30</sup>, the Commission also alludes to the absence of explicit provisions under the laws of many Member States which results in an information gap in this area and difficulty in assessing whether national legislation is in compliance with Article 11.

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<sup>30</sup> <http://eur-lex.europa.eu/procedure/EN/1041871>.

### 3. POLITICAL COMMITMENTS AT EUROPEAN LEVEL

#### A. Council of Europe

The Council of Europe's Parliamentary Assembly has consistently maintained pressure on Member States to adopt the relevant European conventions and measures to improve migrant democratic participation. These topics were discussed in the Assembly's Recommendation 1500<sup>31</sup> (see Annex 1) as well as its June 2008 Recommendation on *State of democracy in Europe: measures to improve the democratic participation of migrants*<sup>32</sup> (See Annex 1). A more recent report on migrants' integration in Europe<sup>33</sup> by the Council of Europe's Parliamentary Assembly has stressed that 'most immigrants want to vote, want more diversity in politics and would be ready to vote to back this up.' In a subsequent resolution<sup>34</sup>, the Parliamentary Assembly reiterated its earlier recommendation that Member States 'ensure that migrants have a say in the democratic process by granting them, in particular, the right to vote at [the] local level'.

The Congress of Local and Regional Authorities has specifically promoted the establishment of consultative bodies. Resolution 141<sup>35</sup> and Recommendation 115<sup>36</sup> (2002) address local political participation measures, particularly consultative bodies, which the Congress later made the subject of a Handbook<sup>37</sup>. Though the Congress has welcomed the adoption of local voting rights for EU citizens, it also recognized that this created "a form of discrimination between residents of foreign origin, contrary to the principles upheld by the Council of Europe and set forth in the European Convention on Human Rights." The Committee of Experts on Democratic Participation and Public Ethics at Local and Regional Level regularly assesses the obstacles to ratification of Convention on local political participation<sup>38</sup> (No. 144). The European Committee on Migration developed its Community Relations project and Framework of Integration Policies, in response to the Committee of Ministers' 1992 recommendation for "the fullest participation of migrants and persons of immigrant origin in the life of the society of the country in which they live." The European Commission for Democracy through Law has drafted a "Code of Good Practice in Electoral Matters"<sup>39</sup>. The code states that "it would be advisable for foreigners to be allowed to vote in local elections after a certain period of residence." The European Commission against Racism and Intolerance (ECRI)'s reports cover integration and migrant participation<sup>40</sup>. Reacting to global developments, the Congress of Local and Regional Authorities stressed the importance of participation in

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<sup>31</sup> <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16876&lang=en>.

<sup>32</sup> <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17657&lang=en>.

<sup>33</sup> Report: *Integration of migrants in Europe: the need for a proactive, long-term and global policy*, CoE Document 13530, 6 June 2014; please see: <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=20939&lang=en>.

<sup>34</sup> The Resolution 2006 (2014) on *Integration of migrants in Europe: the need for a proactive, long-term and global policy*; please see: <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=21067&lang=en>.

<sup>35</sup> <https://rm.coe.int/168071a2f9>.

<sup>36</sup> <https://rm.coe.int/1680718c06>.

<sup>37</sup> Sonia Gsir and Marco Martiniello, *Local consultative bodies for foreign residents—a handbook* (Council of Europe: Strasbourg, 2004).

<sup>38</sup> <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/144>.

<sup>39</sup> [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2002\)023rev-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2002)023rev-e).

<sup>40</sup> For example, see pp.7-8 of the 2016 ECRI annual report; [https://www.coe.int/t/dghl/monitoring/ecri/activities/Annual\\_Reports/Annual%20report%202016.pdf](https://www.coe.int/t/dghl/monitoring/ecri/activities/Annual_Reports/Annual%20report%202016.pdf).



decision-making processes and, with this in mind, also facilitating refugee and migrants' long-term inclusion into communities through early integration approaches.

## ***B. European Union***

### *a. A commitment to improving EU citizens' political participation*

A significant political commitment on the rights of EU citizens living in another EU Member State came with the EU's "Stockholm" work programme for justice and home affairs for 2010-2014<sup>41</sup>. Better implementing EU citizens' electoral and other political participation rights became a priority for the European Commission, as noted in its Communication on the Stockholm programme:

[I]n practice, the exercise of [EU citizens' local passive and active voting rights] leaves much to be desired, and must be facilitated by communication and information campaigns on the rights associated with citizenship of the Union....More generally, ways of adding to the electoral rights of citizens residing in another Member State should be studied, on the basis of periodic reports submitted in accordance with the Treaty, in order to increase the participation of citizens in the democratic life of their Member State of residence.

### *b. Integration of third-country nationals: a de facto Open Method of Co-ordination*<sup>42</sup>

For third-country nationals, Lisbon Treaty Article 63a(4) also formalizes the role that the EU has already been playing to provide incentives and technical and financial support for whatever political and civic opportunities each Member State wants to grant to its non-EU residents. Political commitments and technical co-operation were started under the "Hague" programme for justice and home affairs 2004-2009<sup>43</sup>. New priorities have been set at every European conference of the ministers responsible for integration: Groningen (2004), Potsdam (2007), Vichy (2008), Zaragoza (2010) and Milan (2014). This process has been guided by the Common Basic Principles for Immigrant Integration Policy<sup>44</sup> (CBPs), adopted by the Member States in the 2004 Council Conclusions. The aim of the CBPs was to:

- Assist Member States in formulating integration policies by offering them a simple, non-binding guide, with which they can judge and assess their own efforts;

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<sup>41</sup> <http://www.mvcr.cz/mvcren/article/agenda-of-the-eu-at-the-ministry-of-the-interior-hague-programme.aspx>.

<sup>42</sup> The Open Method of Co-ordination provides a new framework for co-operation between the Member States, whose national policies can thus be directed towards certain common objectives. Under this intergovernmental method, the Member States are evaluated by one another, with the Commission's role being limited to surveillance. The European Parliament and the Court of Justice play virtually no part in the OMC process.

It is based principally on: (a) jointly identifying and defining objectives to be achieved (adopted by the Council); (b) jointly established measuring instruments (statistics, indicators, guidelines); (c) benchmarking, i.e. comparison of the Member States' performance and exchange of best practices (monitored by the Commission). Depending on the areas concerned, the OMC involves so-called "soft law" measures which are binding on the Member States in varying degrees but which never take the form of directives, regulations or decisions. From the Europa Glossary: [http://europa.eu/scadplus/glossary/open\\_method\\_coordination\\_en.htm](http://europa.eu/scadplus/glossary/open_method_coordination_en.htm).

<sup>43</sup> <http://www.mvcr.cz/mvcren/article/agenda-of-the-eu-at-the-ministry-of-the-interior-hague-programme.aspx?q=Y2hudW09Mg%3d%3d>.

<sup>44</sup> [http://www.eesc.europa.eu/resources/docs/common-basic-principles\\_en.pdf](http://www.eesc.europa.eu/resources/docs/common-basic-principles_en.pdf).

- Serve as a basis for Member States to explore how EU, national, regional, and local authorities can interact in the development and implementation of integration policies;
- Assist the Council to reflect upon and, over time, agree on EU-level mechanisms and policies needed to support national and local-level integration policy efforts.

The CBPs stated among other things that developing clear goals, indicators and evaluation mechanisms are necessary to adjust policy, evaluate progress on integration and to make the exchange of information more effective. In this vein, as a follow-up to the conclusions of the fourth Ministerial Conference on Integration in 2010<sup>45</sup>, the Commission started developing a pilot project with Eurostat and the Member States for monitoring results of integration policies, including development of a set of common core indicators aiming to enhance comparability and reinforce the European learning process. This exercise resulted in what are now most commonly known as the ‘Zaragoza indicators’. The driving force was to support the monitoring of the situation of migrants in order to enhance comparability between the EU Member States. The Member States agreed that the indicators should be on existing and comparable data for most Member States, limited in number, comparable over time, productive and cost-effective, simple to understand and easy to communicate and focused on outcomes. Social inclusion and the participation of migrants in the democratic process as active citizens were identified as priority areas.

The Report ‘Using EU Indicators of Immigrant Integration’<sup>46</sup> was prepared at the request of the European Commission by the European Services Network (ESN) and the Migration Policy Group (MPG) as a tool to monitor the integration of migrants and evaluate integration policies. Factors such as the characteristics of the migrant population, the general context in the country and national integration policies are considered in relation to societal integration outcomes in areas such as employment, education, social inclusion and active citizenship in order to build on the pilot ‘Zaragoza’ European integration indicators. The Report reflects on the different ways in which indicators could be used to understand national contexts, evaluate the outcomes of policies, and create targets to improve integration. More recently, the indicators have been updated by a joint European Commission-OECD project, with the new results published in June 2015 in a report titled ‘Indicators of Immigrant Integration – Settling In 2015’.<sup>47</sup>

The following indicators are included to monitor active citizenship:

- the share of migrants that have acquired citizenship
- the share of migrants holding permanent or long-term residence permits
- the share of migrants among elected representatives

Marking the ten year anniversary of the CBPs, the EU Member States reaffirmed their commitment to implement the Common Basic Principles in the Justice and Home Affairs Council Conclusions of 5-6

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<sup>45</sup> Please see: <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%209248%202010%20INIT>.

<sup>46</sup> Please see: <https://ec.europa.eu/migrant-integration/index.cfm?action=media.download&uuid=FC375682-95DF-1B86-CF670D84CA41C2D6>.

<sup>47</sup> Please see: [http://www.oecd-ilibrary.org/indicators-of-immigrant-integration-2015\\_5js4rv41tf46.pdf?contentType=%2fns%2fBook%2c%2fns%2fOECDBook&itemId=%2fcontent%2fbook%2f9789264234024-en&mimeType=application%2fpdf&containerItemId=%2fcontent%2fbook%2f9789264234024-en&accessItemIds=&option6=imprint&value6=http%3a%2f%2foecd.metastore.ingenta.com%2fcontent%2fimprint%2foecd](http://www.oecd-ilibrary.org/indicators-of-immigrant-integration-2015_5js4rv41tf46.pdf?contentType=%2fns%2fBook%2c%2fns%2fOECDBook&itemId=%2fcontent%2fbook%2f9789264234024-en&mimeType=application%2fpdf&containerItemId=%2fcontent%2fbook%2f9789264234024-en&accessItemIds=&option6=imprint&value6=http%3a%2f%2foecd.metastore.ingenta.com%2fcontent%2fimprint%2foecd).

June 2014<sup>48</sup>, stating that “the potential of these principles has not been fully exhausted and they can be used to assist Member States to develop further their integration policies and practices in response to the prevailing challenges which migrants and the receiving societies frequently have to face.”

Also in 2014, the 11<sup>th</sup> meeting of the European Integration Forum was exclusively centered on the CBPs and took the opportunity to assess to what extent the CBPs had been a useful framework for the development of European integration policies, so as to feed the policy dialogue for their future development. Amongst the conclusions, migrant political rights (CBP 9) were seen as having an effect on recognition and equitable outcomes: official representation of migrants and people of migrant origin forces the political system to take their needs into consideration. Examples of good practices on consultative bodies were identified in Strasbourg, Nantes and Oslo.

### *c. National implementation of the EU agenda on migrant political participation*

Regarding civic and political participation, two of the CBPs state:

7. Frequent interaction between immigrants and Member State citizens is a fundamental mechanism for integration. Shared forums, inter-cultural dialogue, education about immigrants and immigrant cultures, and stimulating living conditions in urban environments enhance the interactions between immigrants and Member State citizens.

...

9. The participation of immigrants in the democratic process and in the formulation of integration policies and measures, especially at the local level, supports their integration.

The Council’s explanation of Common Basic Principle 9 expands on the value of comprehensive civic and political rights, including electoral rights:

Wherever possible, immigrants should become involved in all facets of the democratic process. Ways of stimulating this participation and generating mutual understanding could be reached by structured dialogue between immigrant groups and governments. Wherever possible, immigrants could even be involved in elections, the right to vote and joining political parties. When unequal forms of membership and levels of engagement persist for longer than is either reasonable or necessary, divisions or differences can become deeply rooted. This requires urgent attention by all Member States.

The European Commission, through its Communications on the integration of third-country nationals, has tried to interest Member States in co-operation on migrant political participation:

- Community immigration policy: COM (2000) 757<sup>49</sup>
- Immigration, integration and employment: COM (2003) 336<sup>50</sup>

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<sup>48</sup> Available at:

[https://www.google.be/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CB8QFjAA&url=http%3A%2F%2Fwww.consilium.europa.eu%2Fen%2Fworkarea%2Fdownloadasset.aspx%3Fid%3D15904&ei=kOpCVdvRBomzabPigJgK&usg=AFQjCNGYP\\_RDiomSFOnvThA\\_UB9dCndiCw&bvm=bv.92189499,d.bGQ](https://www.google.be/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CB8QFjAA&url=http%3A%2F%2Fwww.consilium.europa.eu%2Fen%2Fworkarea%2Fdownloadasset.aspx%3Fid%3D15904&ei=kOpCVdvRBomzabPigJgK&usg=AFQjCNGYP_RDiomSFOnvThA_UB9dCndiCw&bvm=bv.92189499,d.bGQ).

<sup>49</sup> <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52000DC0757>.

<sup>50</sup> <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52003DC0336>.

- Common Agenda on Integration COM (2005) 389<sup>51</sup>
- First Annual Report on Migration and Integration COM (2004) 508<sup>52</sup>
- Second Annual Report on Migration and Integration: SEC (2006) 892<sup>53</sup>
- Third Annual Report on Migration and Integration: COM (2007) 512<sup>54</sup>
- Strengthening actions and tools to meet integration challenges: SEC (2008) 2626<sup>55</sup>
- Second European Agenda for Integration: SEC(2011) 957 final<sup>56</sup>
- Action Plan on the integration of third country nationals, COM(2016) 377 final<sup>57</sup>

These Communications have supported a more ambitious implementation of Common Basic Principle 9 on democratic participation. In its 2005 Common Agenda on Integration, the Commission provided a list of possible implementing actions to guide national and EU integration policies and funding:

*National level:*

- Increasing civic, cultural and political participation of third-country nationals in the host society and improving dialogue between different groups of third-country nationals, the government and civil society to promote their active citizenship
- Supporting advisory platforms at various levels for consultation of third-country nationals
- Encouraging dialogue and sharing experience and good practice between migrant groups and generations
- Increasing third-country nationals' participation in the democratic process, promoting balanced gender representation, through awareness raising, information campaigns and capacity-building
- Minimizing obstacles to the use of voting rights, e.g. fees or bureaucratic requirements
- Facilitating migrants' participation in mainstream organizations, i.a. by supporting volunteer and internship schemes
- Increasing involvement of third-country nationals in society's responses to migration
- Building migrants' associations as sources of advice for newcomers, and including their representatives in introduction programmes as trainers and role models
- Elaborating national preparatory citizenship and naturalization programmes

*EU level:*

- Initiating a study/mapping exercise of the level of rights and obligations of third-country nationals in the Member States
- Encouraging the opening up of mainstream organizations to migrants and the building of organizations representing their interests EU-wide
- Fostering the creation of a platform of migrants' organizations and organizations representing migrants' interests at EU level
- Exploring the value of developing a concept of civic citizenship as a means of promoting the integration of third-country nationals, including the rights and duties needed to give migrants a sense of participation in society

<sup>51</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2005:0389:FIN:EN:PDF>.

<sup>52</sup> <http://ec.europa.eu/transparency/regdoc/rep/1/2004/EN/1-2004-508-EN-F1-1.Pdf>.

<sup>53</sup> <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2011526%202006%20INIT>.

<sup>54</sup> <https://www.euromed-justice.eu/en/document/eu-2007-com-512-final-communication-commission-council-european-parliament-economic-and>.

<sup>55</sup> <http://ec.europa.eu/transparency/regdoc/?fuseaction=list&coteId=2&year=2008&number=2626&version=ALL&language=en>

<sup>56</sup> [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/news/intro/docs/110720/1\\_en\\_act\\_part1\\_v10.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/news/intro/docs/110720/1_en_act_part1_v10.pdf)

<sup>57</sup> [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160607/communication\\_action\\_plan\\_integration\\_third-country\\_nationals\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160607/communication_action_plan_integration_third-country_nationals_en.pdf)

- Promoting research and dialogue on identity and citizenship questions

The Commission's Communications reiterated that extending local voting rights to non-EU nationals was part of the Council's interpretation of CBP 9. The Commission noted the window of opportunity presented by the necessary legislative changes to transpose the long-term residence directive and introduce EU citizens' voting rights. Its Annual Reports on Migration and Integration have tracked Member States' agendas and policy improvements on political participation, while expressing the Commission's disappointment that "overall progress is slow"<sup>58</sup>, "rather limited"<sup>59</sup>, and "still weak," citing the EU's weak showing in MIPEX on citizenship and political participation<sup>60</sup>. In its recent Second Agenda on Integration<sup>61</sup>, the European Commission has recommended that EU Member States remove obstacles to migrants' political participation. The involvement of migrant representatives in the drawing up and implementation of integration policies and programmes should be further enhanced.

The Commission's Communications also attempted to raise political participation on the agenda of the Member States by introducing the idea of naturalization as a national integration strategy for long-term residents. The Member States had agreed in the seminal 1999 Tampere Presidency Conclusion<sup>62</sup>s that they should give legally-resident long-term non-EU nationals the opportunity to acquire nationality and, consequently, European citizenship. The Commission's interpretation of CBP 9, according to the 2005 Common Agenda for Integration, is that migrants' participation in the democratic process is strengthened at national level through the elaboration of national preparatory citizenship and naturalization programmes. The 2007 Potsdam informal meeting of the EU Integration ministers invited European co-operation (through the Handbook exercise, see section on technical support) to explore and clarify "the various conceptions of and approaches to ideas of participation and the various conceptions of citizenship under discussion, taking into account the relevant EC *acquis* that relate to the integration of migrants and Member States' Constitutional and legal systems as well as exchange views and experiences on naturalization systems applied by Member States."

Building on the 2011 European Agenda on Integration<sup>63</sup>, in June 2016 the European Commission committed to stepping up its action on the integration of third country nationals by putting forward an EU Action Plan on the integration of third country nationals. The document shows a renewed commitment to co-ordinating integration. The actions are carried out with new commitments from all major European Commission DGs to open up their services and funds to migrants and refugees. The Action Plan is also a new attempt at multi-level governance, among others through an Urban Agenda Partnership<sup>64</sup>. Its potential to relaunch and deepen the migrant integration policy agenda on EU-level, which is marked by an open co-ordination method, merits a close look at the policy priorities and provisions for policy co-ordination set out in this document.

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<sup>58</sup> Commission Staff Working Document, Second Annual Report on Migration and Integration, SEC (2006) 892, Brussels, 30.6.2006.

<sup>59</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Third Annual Report on Migration and Integration, COM (2007) 512.

<sup>60</sup> Commission Staff Working Document, Strengthening actions and tools to meet integration challenges Report to the 2008 Ministerial Conference on Integration, SEC (2008) 2626.

<sup>61</sup> [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/news/intro/docs/110720/1\\_en\\_act\\_part1\\_v10.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/news/intro/docs/110720/1_en_act_part1_v10.pdf)

<sup>62</sup> [http://www.europarl.europa.eu/summits/tam\\_en.htm](http://www.europarl.europa.eu/summits/tam_en.htm)

<sup>63</sup> [http://europa.eu/rapid/press-release\\_IP-11-911\\_en.htm?locale=en](http://europa.eu/rapid/press-release_IP-11-911_en.htm?locale=en).

<sup>64</sup> [http://ec.europa.eu/regional\\_policy/en/policy/themes/urban-development/agenda/](http://ec.europa.eu/regional_policy/en/policy/themes/urban-development/agenda/).

All the Action Plan's policy priorities will be supported by two main tools in order to engage in the process all relevant European Commission DGs, as well as all multi-level stakeholders:

1) Policy co-ordination

- a. Upgrading the current Network of National Contact Points on Integration into a European Integration Network to support co-ordination and mutual learning among Member States;
- b. European Migration Forum, as a platform for exchange between civil society and European institutions;
- c. Country Reports and Country-Specific Recommendations of the European Semester including labour market integration, education and social inclusion of third country nationals;
- d. Education and Training 2020 strategic framework for European co-operation in education and training<sup>65</sup>;
- e. EU Work Plan for Youth 2016-2018<sup>66</sup>;
- f. Urban Agenda Partnership for developing actions on the integration of third country nationals, led by the City of Amsterdam and including several Commission DGs, Member States, cities and civil society representatives.

2) Funding, most important sources:

- a. Asylum, Migration and Integration Fund - AMIF
- b. European Structural and Investment Funds – ESIF
- c. European Social Fund Transnational Co-operation Network on Migration

The EU Action Plan covers five thematic areas, namely: Pre-departure and pre-arrival measures; Education; Employment and vocational training; Access to basic services such as housing and healthcare; and, Active participation and social inclusion. The Action Plan recognizes that the involvement of third-country nationals themselves in the design and implementation of integration policies is essential to improve their participation and their integration outcomes and goes on to stress that integration is about playing, as well as being *allowed* to play, an active role in one's local, regional and national community, about developing and sustaining real people-to-people contacts through social, cultural and sports activities and 'even' political engagement.

The Commission commits to launching projects under different EU funds promoting actions to support exchanges with the receiving society and migrants' participation in political, social and cultural life. In strengthening their integration policies, Member States are urged to increase third country nationals' participation in local democratic structures.

*d. EU technical co-operation on integration*

Governments and stakeholders at the various levels of governance have been brought together for targeted co-operation on integration through the following mechanisms:

- Handbook on Integration for policymakers and practitioners<sup>67</sup>

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<sup>65</sup> [http://eacea.ec.europa.eu/education/eurydice/documents/thematic\\_reports/163EN.pdf](http://eacea.ec.europa.eu/education/eurydice/documents/thematic_reports/163EN.pdf).

<sup>66</sup> [http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:150403\\_1](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:150403_1).

- European Integration Modules<sup>68</sup>
- Website on Integration
- European Migration Forum

In terms of the civic and political participation of migrants, the Handbook on Integration's rounds of technical seminars and three editions (2004, 2007, 2010) have provided information and practical examples in chapters on:

- Civic participation
- Introduction programmes
- Dialogue platforms
- Awareness-raising and empowerment
- Acquisition of nationality and the practice of active citizenship

The Handbook's conclusions for the chapter on civic participation, dialogue platforms, awareness-raising and empowerment, and the acquisition of nationality are presented in Annex 1.

The European Modules on Migrant Integration followed up on the Handbook exercise to become established but flexible frameworks that can be adapted to the different contexts of Member States in order to contribute to successful integration policies and practices across Europe. Modules on topical integration issues are intended as to assist policy-makers and practitioners to practically implement the CBPs. The Final Report on the European Integration Modules<sup>69</sup> was prepared by the Commission, in dialogue with representatives of Member State governments and civil society organizations in the areas of: 1) introductory courses and language classes; 2) a strong commitment by the receiving society; and 3) the active participation of migrants in all aspects of collective life. The third module comprises of three components, namely: Political participation, Civil participation and Intercultural policies. In particular, the components on political participation and civil participation are closely related to each other. When it comes to civic and political participation, it can be said that civil participation can provide migrants with the necessary skills and experience that are also needed for political participation.

The political participation component has a clear purpose to show how Member States can overcome legislative or structural barriers for migrants' political participation, and to involve migrants and migrant representatives in the development and implementation of policies. The component provides the Member States with ideas on ways to extend voting rights to third-country nationals, and how to strengthen the role of consultative bodies in political processes. The purpose is to create an environment where migrant communities can voice their needs, concerns and interests, and participate fully in political life, thus reaching descriptive and substantial representation for migrants.

The component on civil participation stresses the active participation of migrants and organizations at the local level, working directly in and with local communities. This is also an important platform for developing a feeling of inclusion in the receiving society among migrants. Through civil participation at

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<sup>67</sup> *Handbook on Integration for policy-makers and practitioners* (European Commission, Directorate General for Justice, Freedom and Security, Third edition, April 2010); <https://ec.europa.eu/migrant-integration/librarydoc/handbook-on-integration-for-policy-makers-and-practitioners-2nd-edition>.

<sup>68</sup> <https://ec.europa.eu/migrant-integration/librarydoc/european-modules-on-migrant-integration---final-report>.

<sup>69</sup> <https://ec.europa.eu/migrant-integration/librarydoc/european-modules-on-migrant-integration---final-report>.

the local level, migrants can express their expectations and needs, highlight their contributions, and avoid overdependence on social institutions, leading to mutual empowerment and greater confidence between society and migrants. It can also help migrants understand the importance of representation in local society. Civil participation is only possible when states provide the framework for it, for example the possibility to establish local level organizations, and when tools such as training and support are available.

The European Website on Integration, launched in April 2009, is a unique one-stop resource point that covers all dimensions of integration and gathers information from a wide variety of stakeholders. The Website provides EU-wide daily news, information related to European, national and private funding opportunities, a collection of good practices, interactive tools to find partners, events and European co-operation in the many areas of societal integration, including civic and political participation. This information is searchable at [www.integration.eu](http://www.integration.eu) under the category “Active Citizenship” and its various sub-categories:

- *Civic citizenship*
- *Naturalization*
- *Political participation*
- *Volunteering and third-sector*
- *Consultation*
- *Mediation and dialogue platforms*
- *Civic education*

Also launched in April 2009, the European Migration Forum (formerly known as the European Integration Forum) was set up as a means to promote greater opportunities for migrant political participation at national and EU level. In the Communication 'A Common Agenda for Integration: Framework for the Integration of Third-Country Nationals in the European Union' of September 2005<sup>70</sup>, the European Commission affirmed that a comprehensive approach, involving stakeholders at all levels, was essential for the success of integration policies. This Forum can be seen as a new approach to the model first tried with the 1990s European Union Migrant's Forum. This time migrant and mainstream civil society are linked together within the conventional structure of its host, the Economic and Social Affairs Committee. The Forum could also be positioned as a counter-balance to the intergovernmental NCPI network, which so far has occupied the central position in EU co-operation mechanisms on integration. Participants have suggested that its working groups could put the following topics on the EU agenda: political participation, capacity building and access to EU funding for migrant organizations, and the elaboration of guidelines for the creation of consultative bodies at national level.

When the European Integration Forum met for the 10<sup>th</sup> time in November 2013, the theme was “Participation of migrants in the democratic process – Towards a more inclusive citizenship” with the main focus on the importance of migrant citizenship and democratic participation for the integration process. To close the Forum, the civil society representatives adopted a political statement on the subject of this meeting, addressed to European, national, regional and local authorities and other stakeholders.<sup>71</sup>

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<sup>70</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52005DC0389>.

<sup>71</sup> 'Statement on Participation of migrants in the democratic process – Towards inclusive citizenship' available here: [http://www.eesc.europa.eu/resources/docs/2013-11-25\\_10th-forum-statement\\_en.pdf](http://www.eesc.europa.eu/resources/docs/2013-11-25_10th-forum-statement_en.pdf)



Also presented during the meeting was the European Economic and Social Committee (EESC) opinion on "A more inclusive citizenship open to migrants"<sup>72</sup>. As a clear message, the EESC calls on Member States to adopt more flexible legislation and administrative procedures, in order to enable third-country nationals with long-term resident status to acquire nationality and proposes an amendment of Article 20 of the Treaty so that third-country nationals who have stable, long-term resident status can also become EU citizens.

Coincidentally, in December 2013 the Maltese government announced the Maltese Citizenship Scheme/ Individual Investor Programme (IIP), which was met with severe criticism from the European Commission. The Commission entered into direct negotiations with the Maltese government and argued that EU citizenship should not be 'for sale'. In order to address these concerns, one of the main demands by the European Commission for Malta was to introduce a "genuine link" or "genuine connection" for awarding Maltese citizenship to any applicants under the IIP. The Maltese government was finally persuaded to modify the IIP through the introduction of a residence requirement of at least twelve months as a precondition for obtaining citizenship. The Commission welcomed the announced amendments concerning the residence requirement<sup>73</sup>.

#### *e. Role of EU financial support*

Financial support may prove to be the EU's most effective means for promoting the civic participation of third-country nationals in the Member States. Under the previous cycle (2007-2013), EUR 825 million was spent under the European Integration Fund (EIF) and had as one of its six objectives to "increase of civic, cultural and political participation of third country nationals in the host society, in order to promote their active citizenship and recognition of fundamental values." Council Decision 2007/435/EC<sup>74</sup> lists the various ways that Member States and the European Commission could use the fund to promote civic and political participation: from dialogue platforms, to consultative bodies, information campaigns, active citizenship initiatives, and volunteering programmes for all types of migrant and mainstream organizations.

The Member States' choices in using the European Integration Fund to improve migrant civic and political participation are discussed in the report evaluating the results of the EIF actions for the 2007-2009 period<sup>75</sup>.

Under the current Multi-annual Financial Framework 2014-2020<sup>76</sup>, EUR 765 million has been reserved by Member States for integration under their Asylum Migration and Integration Fund (AMIF) national programmes. This figure shows a slight decrease over the previous period while the needs are actually larger. The Regulation establishing the AMIF calls for the adoption of a more targeted approach to integration, in support of consistent strategies to be developed at the national, local and/or regional level.

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<sup>72</sup> Available here: [http://webapi.eesc.europa.eu/documentsanonymous/ces3210-2013\\_00\\_00\\_tra\\_ac\\_en.doc](http://webapi.eesc.europa.eu/documentsanonymous/ces3210-2013_00_00_tra_ac_en.doc).

<sup>73</sup> EC press statement on this decision available here: [http://europa.eu/rapid/press-release\\_MEMO-14-70\\_en.htm](http://europa.eu/rapid/press-release_MEMO-14-70_en.htm).

<sup>74</sup> <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32007D0435>, and <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32014R0516>.

<sup>75</sup> Evaluation report available here: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011DC0847&from=EN>.

<sup>76</sup> [http://ec.europa.eu/budget/mff/index2014-2020\\_en.cfm](http://ec.europa.eu/budget/mff/index2014-2020_en.cfm).

The European Social Fund (ESF) is Europe's main tool for promoting employment and social inclusion. The bulk of the €86 billion available from 2014 to 2020 is spent under shared management, meaning Member States develop and implement their own programmes in co-ordination with the EU institutions. At least 20% of the European Social Fund will be allocated to social inclusion. The May 2015 European Agenda on Migration<sup>77</sup> mentioned that this 20% can and should include the integration of migrants, with a particular focus on refugees, asylum-seekers and their children.

#### *f. European Parliament*

The European Parliament's powers on EU immigration legislation under the Lisbon Treaty move from "consultation" to "co-decision" with the European Council. To date, the Council has had to "consult" the EP in legislative areas and "co-decide" with it only on the budget (i.e. European Integration Fund). The EP, within its limited consultation role, has tried to influence European Council negotiations with its "opinions" on proposed Directives as well as the European Commission with its "own-initiative reports" on potential areas for EU action. Voting rights and the civic participation of third-country nationals has received clear and consistent support from the EP since 1996 as well as from other EU consultative bodies like the Economic and Social Committee and the Committee of Regions<sup>78</sup>.

Reacting to the Maltese Individual Investor Programme, in January 2014 the European Parliament decided to open a general debate on the practice of selling EU citizenship and the European Parliament plenary adopted a resolution on selling EU citizenship strongly criticizing the practice on broad principled grounds. The parliament argues that such a practice discriminates between third-country nationals on the basis of their wealth, since people of ordinary means are shut out of the naturalization process by virtue of the sheer size of the investment required under the schemes. In addition, insofar as EU citizenship is conceived as one of the major achievements of EU law, the EP argues that it should never become a tradable commodity. The Parliament's criticisms also concern the criteria at the basis of the contested citizenship schemes. In particular, like the Commission, the Parliament criticizes the lack of a person's ties with the EU and with member states.

#### ***C. The Nordic Union: example of regional co-operation in Europe***

Other instances of European co-operation on civic and political participation have emerged outside the Council of Europe and EU framework. For instance, the Nordic Passport Union, which has brought together Denmark, Finland, Iceland, Norway, and Sweden since 1966, raised the issue of voting rights of Nordic nationals living in another Nordic state. As a result of formal Nordic Union action, in 1977 the Nordic Council reached an informal consensus and adopted a recommendation stating that Nordic citizens residing in other Nordic states should be able to vote. The above is an early example for other international bodies of a regional commitment on electoral rights that was informal (no formal treaty),

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<sup>77</sup> [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/communication\\_on\\_the\\_european\\_agenda\\_on\\_migration\\_en.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/communication_on_the_european_agenda_on_migration_en.pdf).

<sup>78</sup> Florian Geys, "Trends in the EU-27: Regarding participation of third-country nationals in the host country's political life," *Briefing paper*, Brussels: European Parliament, 2007.

effective (local active and passive voting rights for Nordic citizens throughout the region), and expansive (later extended to all non-nationals, even prior to signing the Maastricht Treaty)<sup>79</sup>.

#### ***D. The Organization for Security and Co-operation in Europe***

In the Charter of Paris for a New Europe<sup>80</sup> from 1990 (see Annex 1) the States participating in the Conference for Security and Co-operation in Europe affirmed that every individual (thus not referring here only to citizens) had the right to freedom of association and peaceful assembly, as well as to participate in free and fair elections (though participation should not be read as voting rights as this remains the sovereign decision of each participating State). However among the OSCE commitments there are none explicitly stating that migrants have the right to civic and political participation. In general, the focus in those commitments is primarily on migrant workers and their access to labour rights and protection. In the Concluding Document of Budapest from 1994<sup>81</sup> the OSCE participating States committed themselves, among others, to “continue to promote the integration of migrant workers in the societies in which they are lawfully residing. They recognize that a successful process of integration also depends on its active pursuit by the migrants themselves and decided therefore to encourage them in this regard”. The active pursuit by migrants can be understood here as active involvement in societal affairs. In the 2003 decision of the Ministerial Council in Maastricht<sup>82</sup> the OSCE Office for Democratic Institutions and Human Rights was encouraged to reinforce its activities in among others facilitating the integration of migrant workers (see Annex 1).

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<sup>79</sup> Groenendijk, 2008, *op.cit.*

<sup>80</sup> <http://www.osce.org/mc/39516>.

<sup>81</sup> <https://www.osce.org/mc/39554?download=true>.

<sup>82</sup> <http://www.osce.org/mc/19382>.

#### 4. POLICY FRAMEWORKS IN EUROPEAN COUNTRIES

Political participation and naturalization policies in 28 EU Member States, as well as Iceland, Norway, Switzerland and Turkey, and several non-European states, were mapped alongside six other areas of integration in the 2015 Migrant Integration Policy Index<sup>83</sup> (MIPEX) – this analysis includes the many, but not all, OSCE participating States which completed MIPEX national assessments. The EU Member States on average scored better for granting non-EU migrants access to family reunion and long-term residence, two areas covered by EU law, than they did for granting them political rights or access to nationality. The European Commission took note of the MIPEX finding that access to nationality and political participation are major areas for improvement in EU Member States’ integration strategies.

Most migrants have few opportunities to inform and improve the policies that affect them daily. Opening political and civil rights is the sign of a confident country of migration. On average, migrants are slightly more discouraged than encouraged to participate through the standard civic channels: limited local voting rights for (non-EU) foreigners, weak consultative bodies and poorly supported migrant organizations. On one end of the scale, a (non-EU) foreign national has full political liberties, voting rights, elected consultative bodies, and access to funding at local, regional, and national level. On the other end, a (non-EU) foreign national cannot form a political association or join a political party, vote in local elections like EU citizens, or have access to funding or consultative bodies at any level of governance. Generally in Western Europe, migrants enjoy greater voting rights, stronger consultative bodies, more support for migrant organizations and more outreach from mainstream organizations and authorities. In contrast, migrants in Central Europe, Baltics, Cyprus, Malta and Turkey enjoy nearly none of these rights unless they (can) naturalize. Political participation is missing from their integration strategies, despite European norms and regional promising practices (e.g. Czech Republic, Estonia, Lithuania, Slovenia). While political participation policies are more inclusive at local level (i.e. more voting rights, consultative bodies and funding), the types of policies adopted are often the same at local, regional and national level, due to a rapid diffusion of ideas and norms across a country and the often nationwide nature of integration public debates.

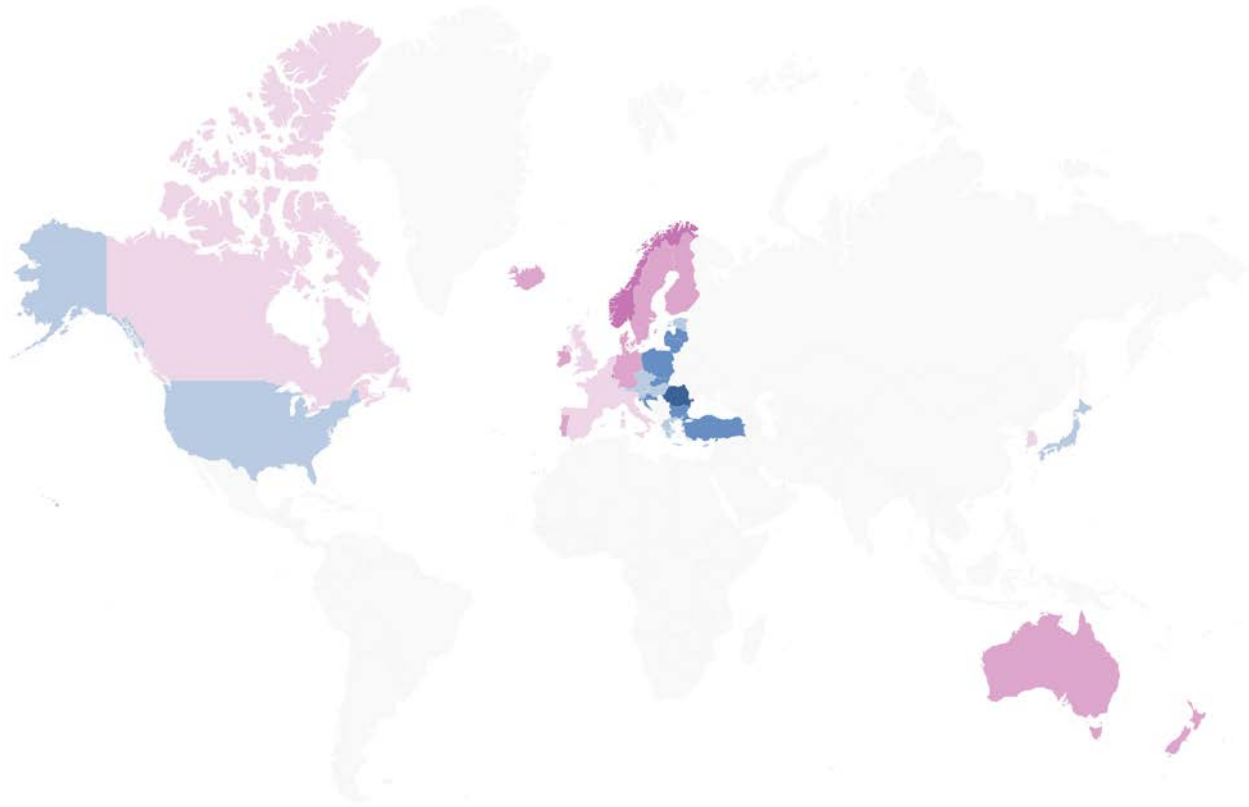
It is interesting to note that there is no statistically significant correlation in countries between the MIPEX scores on access to nationality and political participation. There is no trade-off between granting political rights for migrants and facilitating their naturalization, as the issue is often framed in political debates<sup>84</sup>. Several countries encourage foreign residents, regardless of their citizenship, to participate politically while also encouraging them to take up national citizenship—and thus full political rights.

Rather, there is a slightly positive correlation between political participation and citizenship policies in Europe: the more (or less) a country promotes the political participation of migrants, the more (or less) it tends to facilitate their becoming its citizens. The countries that tended to facilitate the political participation of foreigners and the naturalization of new citizens were the Benelux countries (Belgium, Luxembourg, Netherlands), Anglophone countries (Ireland and UK), Nordic countries (Finland and Sweden), and Portugal. Those countries that tended to restrict opportunities for political participation and naturalization were in Central Europe, the Baltics, and the Eastern Mediterranean.

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<sup>83</sup> <http://www.mipex.eu/>.

<sup>84</sup> Dirk Jacobs et al., “Political participation for migrants: the MIPEX results,” in Jan Niessen, and Thomas Huddleston, (eds.) *Legal frameworks for the integration of third-country nationals* (Nijmegen: Brill, 2009).



Ranking 2014		Score	Ranking 2014		Score	Ranking 2014		Score
1	Norway	82	14	Belgium	57	27	Slovenia	23
2	Luxembourg	81	15	Spain	54	27	Hungary	23
3	Finland	79	15	South Korea	54	29	Estonia	21
4	Portugal	74	17	France	53	29	Czech Republic	21
4	New Zealand	74	18	Netherlands	52	31	Lithuania	16
6	Ireland	73	19	United Kingdom	51	31	Slovakia	16
7	Sweden	71	20	Canada	48	33	Bulgaria	13
8	Iceland	67	21	Austria	38	33	Latvia	13
9	Australia	64	22	USA	36	33	Croatia	13
9	Denmark	64	23	Japan	31	36	Turkey	11
11	Germany	63	24	Greece	30	37	Poland	6
12	Italy	58	25	Cyprus	25	38	Romania	0
12	Switzerland	58	25	Malta	25			

Migrants' political opportunities are not getting much better. In 2010, Greece was the only country to make significant progress in recent years, by reforming nationality law and opening many local political opportunities. However, by 2013 Greece was the first country in recent history to repeal voting rights for foreigners when the supreme administrative court found the 2010 law unconstitutional that had provided, inter alia, for migrants' rights to vote and stand for election at the local level, making Greece the first country in recent history to take away the right to vote from non-EU migrants.

Overall, promoting political participation is slowly becoming part of integration strategies, as countries show renewed interest in voting rights and consultative bodies. Restrictions on foreign citizens' political liberties are also slow to change and depend on courts or politicians seeing migrants as benefits to the country's democratic order (e.g. 2012 Czech revision) and not as threats (e.g. 2012 Hungarian political party restriction). In contrast, migrant consultative bodies and funding for migrant organizations can quickly come and go, based solely on whether or not governments are willing to listen and not based on community needs. Government disinterest recently led to the closure of these bodies in Norway and the Netherlands and funding cuts in Denmark, Netherlands, Spain and the United Kingdom. In general, reform will often require greater political will or constitutional reforms/cases.

### ***A. Civic and political participation of foreign nationals***

#### *a. Freedom of association, trade unions, and political parties*

The law in most European countries states that migrants should enjoy the civil liberties favourable for integration, according to MIPEX. These basic liberties include the right of all residents to petition, assemble, demonstrate, found an association and join a trade union or political party. 11 countries<sup>85</sup>, mostly in Central Europe, still have laws denying migrants basic political liberties, such as joining a political party or founding a political association.

A few East European states have yet to remove or change the interpretation behind provisions that date back to the Communist or post-Communist state-building periods. The MIPEX identified restrictions in the Baltic States, the Czech Republic and Slovakia, and Slovenia:

- Since MIPEX, the Czech Ministry of Interior adopted a more inclusive interpretation of Act 83/1990 so that any person—and not just citizens—have the right to form an association. Before, non-nationals could only do so if they included at least three Czech nationals. Following 2014 Human Rights Council proposals, non-EU citizens may soon be able to become members of political parties, as in the vast majority of MIPEX countries.
- In Latvia, the Law on Public Organizations and their Associations, adopted in 1992 and amended in 2004, denies non-nationals the right to form a political association and restricts the number who can join a given political party. Similar restrictions are found in Lithuania and Slovakia.
- Slovenian political parties can only include non-nationals as honorary members.

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<sup>85</sup> Bulgaria, Croatia, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia and Turkey.

Migrants' civic rights remain a dynamic area of alien's law as national and European courts play an active role in the review of changing interpretations or restrictions:

- The Spanish Constitutional Court stated in its decision Nr. 236/2007 that there are certain fundamental rights which pertain to every person, regardless of administrative status, among which are the rights to association, assembly, demonstration and education.
- After a 2004 decision by the European Court of Justice, Austria amended the 2006 Act on the Chamber of Labour and the Act of Institutional Settings at the Workplace. This revision extended to all third-country national workers the right to stand for elections as shop-stewards (a union member who represents their co-workers in dealings with management) and as delegates to the Chamber of Labour (a platform representing all private employees).

#### *b. Electoral rights*

Electoral rights for migrants in the different areas of governance are identified by MIPEX as an area of great divergence among OSCE participating States covered by the index.

**Table: The state of political participation policies in MIPEX-assessed OSCE participating States**

	Voting rights at local, *regional or **all level(s)	Right to stand as candidate	Allowed to join political parties	Name of national consultative body	Name of consultative body in capital
<b>AT</b>	None	N	Y	N	Foreigners' Advisory Boards (Graz & Linz)
<b>AU</b>	Owners/ renters in SA & VIC	N	Y	Australian Multicultural Council (AMC)	Offices of Multicultural Affairs
<b>BE</b>	5 years + declaration	N	Y	Consultative Council of Foreigners	CBOE (Brussels), Minderhedenforum (Flanders)
<b>BG</b>	None	N	N	N	N
<b>CA</b>	None	N	Y	N	N
<b>HR</b>	None	N	N	N	N
<b>CY</b>	None	N	Y	N	N
<b>CZ</b>	None (no reciprocity treaties)	N	N	N	Migrant Platform (Prague), Commissions for Integration (Mlada Boleslav, Plzen)
<b>DK</b>	3 years* or IS/NO citizen*	Y	Y	Council for Ethnic Minorities	Citizenship Committee (Aarhus)
<b>EE</b>	Permanent residence	N	N	Roundtable of Nationalities	N
<b>FI</b>	2 years or IS/NO citizen	Y	Y	Advisory Board for Ethnic Relations (ETNO)	ETNOs at city level
<b>FR</b>	None	N	Y	N	Citizenship Council of non-EU Parisians, CCPNC and Consultative Citizenship Councils of Foreigners (Grenoble, Lille, Strasbourg, Toulouse, etc.)

<b>DE</b>	None	N	Y	Integration Advisory Board of Federal Commissioner	Foreigners' Advisory Boards
<b>GR</b>	No (Permanent residence option repealed in 2013)	N (repealed in 2013)	Y	N	Councils for Migrants' Integration
<b>HU</b>	Permanent residence	N	N	N	N
<b>IS</b>	5 years	Y	Y	N	Intercultural Council (Reykjavik)
<b>IE</b>	All residents	Y	Y	N	NCP Integration Forums
<b>IT</b>	None	N	Y	N	Elected Foreigners' Advisors and Foreigners' Consultative Bodies
<b>LV</b>	None	N	N	N	N
<b>LT</b>	Permanent residence	Y	N	Consultative Forum of Integration	N
<b>LU</b>	5 years	Y	Y	National Council of Foreigners (CNE)	Consultative Councils of Foreigners
<b>MT</b>	None	N	Y	N	N
<b>NL</b>	5 years	Y	Y	N (former Landelijk Overleg Minderheden, LOM)	Advisory Council on Interculturalisation (Utrecht), Foreigners' Advisory Commission (Nijmegen), Participation Council (Haarlem)
<b>NO</b>	3 years* or IS citizen*	Y	Y	Annual Dialogue Conference (replaced Contact Committee for Immigrants & Authorities)	Council of Immigrant Organisations (Oslo), Minorities Council (Drammen)
<b>PL</b>	None	N	N	0	N
<b>RO</b>	None	N	N	N	N
<b>SI</b>	Permanent residence	N	N	N	N
<b>SK</b>	Permanent residence	Y	N	N	N
<b>ES</b>	Reciprocity* (3 years NO; 5 years BO, CV, CL, CO, EC, IS, NZ, PY)	Y	Y	Forum for Social Integration of Immigrants	Integration Forums
<b>SE</b>	3 years* or IS/NO citizen*	Y	Y	N (support for Co-operation Group for Ethnic Associations in Sweden, SIOS)	N
<b>CH</b>	5 years in 8 cantons*	Y	Y	Federal Commission for Foreigners	Integration Consultative Commissions (e.g. Bern, Geneva, etc)
<b>TU</b>	None	N	N	N	Foreign Citizens' Council (Alanya)
<b>UK</b>	Permanent residence for Commonwealth citizens**	Y	Y	N	Migrant and Refugee Advisory Panel (London), Cross-Party Group on Racial Equality (Scotland), All Party Group on Ethnic Minority Communities (NI)
<b>US</b>	None	N	Y	N	Councils for New Americans (IL, MA, MD, NY, WA)

Source: MIPEx 2015



Voting rights of non-nationals, or non-EU nationals in the case of EU Member States, are long fought for (debated already for over a decade in Austria, France, Germany, Greece, Malta and Switzerland) and hard won. North and Northwestern European countries were the first to grant local voting rights in late 1970s and early 1980s, and there was a period of renewed interest, first with the Czech Republic in 2001, Estonia, Lithuania and Slovenia in 2002, Luxembourg and Slovakia in 2003, Belgium in 2004 and again in Luxembourg in 2011. However, of these countries only the Czech Republic has ratified Council of Europe Convention No. 144<sup>86</sup>, meaning that this trend is not the direct result of European legal standards.

The Nordic countries and Ireland have the most inclusive policy frameworks. They grant local and regional voting rights to a wide scope of legal residents. No effective voting rights are granted in 13 countries, including Austria, France, Germany, Italy, and several Eastern European and Mediterranean states. Across the EU, very few non-nationals are extended the right to vote at local, regional or national level. In Europe, non-EU nationals can stand locally in 11, and nationally in two (Portugal and the UK for certain nationalities with historic links). Non-nationals have the right to vote at local level in most EU Member States, though many required the impetus of EU law. EU citizens from one Member State have the right to vote and stand in local elections in any of the 28 other Member States. Outside the EU, migrants can also stand locally in three more MIPEX-assessed OSCE participating States (Iceland, Norway and Switzerland, at cantonal level), vote locally in four (Australia, Iceland, Norway, Switzerland), regionally in two (Norway, Switzerland).

Granting electoral rights is a linear and often incremental process. Public debate and proposals have not always been successful, often due to constitutional constraints (i.e. constitutional court cases involving Hamburg and Schleswig-Holstein in Germany and Vienna in Austria). Once granted, electoral rights are not revoked or seriously challenged (with the exception of Greece). In practice, letting migrants participate in elections before their naturalization has few implementation and maintenance costs. What's more, few of the supposedly negative effects often raised in debates (foreign influence, ethnic parties, and radical overturn of status quo) play out in practice<sup>87</sup>.

Breaking the symbolic link between voting rights and nationality can instigate a process that eventually extends that right to most foreigners at various levels of governance. For instance, the voting rights that were initially introduced for Nordic citizens in the Nordic countries or EU citizens in the Benelux countries were later extended to all non-nationals. Looking to the future, this incremental process may be ongoing in the more recent, restrictionist countries. Major EU countries of immigration like France, Germany, Italy and Spain have amended their constitutions to transpose EU law granting voting rights to only EU citizens. The recent increase in the number of countries granting voting rights to non-EU nationals has come with a decrease in the number of residents included in their scope<sup>88</sup>. In these countries restrictions are made on the basis of<sup>89</sup>:

- Reciprocity (bilateral agreements with countries of origin, i.e. Czech Republic, Malta, Spain)

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<sup>86</sup> <https://rm.coe.int/168007bd26>.

<sup>87</sup> Groenendijk, 2008, *op. cit.*

<sup>88</sup> Geyser, 2007, *op. cit.*

<sup>89</sup> Waldrauch, 2005, *op. cit.*

- Residence period (upon arrival in Ireland or UK up to ten years in Swiss cantons of Jura and Vaud)
- Registration or application requirement (registration and special oath in Belgium)
- Type of residence status (only long-term residents in Estonia, Lithuania, Slovenia, and Slovakia)
- Certain cities or regions (in Switzerland, Australia, US)

### *c. Funding and information policies*

Active national information policies can be identified in several countries of immigration in Western Europe. Migrants in 27 MIPEX-assessed countries can get some funding for their political activities, while those in 19 get mostly *ad hoc* information about their political rights. Most funding and information is provided in Northwest Europe, Canada, and Portugal. Funding for migrant organizations also tends to come and go (Denmark, the Netherlands, Spain, the United Kingdom), depending on governments' priorities and not on community needs.

### *d. Consultative bodies of foreign residents*

As touched upon earlier in the paper, consultative bodies are a mechanism that states have used to facilitate migrant political participation by acting as a link between the government and migrant communities, a forum for dialogue, an opportunity for the community members to express their opinions on issues affecting them, and a way to encourage integration into the community (stipulated by the Council of Europe's 1992 Convention on the Participation of Foreigners in Public Life at the Local Level). There are different types of consultative bodies: entities in which representatives of foreign residents advise local authorities; committees with membership that includes both foreign residents and local authorities; and bodies comprised solely of foreign residents.

The state of consultative bodies in the EU remains, according to MIPEX, slightly unfavourable for promoting integration. A slight minority of EU Member States have yet to establish structural consultative bodies of foreign residents at any level of governance. Several national advisory bodies do not qualify as migrant consultative bodies. They are entirely composed of experts and mainstream organizations that may work with migrants, but cannot speak for them.

Consultative bodies do exist at local level in 15 countries which are EU Member States. National governments consult with their foreign residents in 13 EU Member States, as well as in Iceland, Norway and Switzerland. Most countries have a national system of consultation. Governments at different levels consult foreign residents in similar ways, often on the basis of a common model.

Most of these bodies only provide halfway meaningful opportunities for migrants to improve policies. The countries where consultative bodies tend to be at least slightly favourable integration mechanisms are Germany, Luxembourg, and the Nordic countries.

The major problem for consulting migrants is that bodies come and go in all countries, often dependent on political will. This paper cannot conclude that consultation is improving over time. The older bodies with

the greatest powers and independence today have generally proven themselves more sustainable and proactive, however, this should also not be taken for granted as government disinterest led to the closure of the two strongest national-level bodies in existence (Norway, 1984-2014 and the Netherlands 1997-2013). Many of the newer bodies are weaker, with government taking the lead. These bodies do not meet when migrants have something to say, but only when and if government wants to hear it. This can aggravate problems of trust, interest, and professionalism for foreign resident members and government representatives.

*e. Linking the different areas of political participation policy*

Secondary analysis of the MIPEX demonstrates that what a country does in one area of migrant political participation is often related to what it does in another<sup>90</sup>. The few countries that restrict the migrants' rights to form an association or join a political party do not establish consultative bodies or migrant voting rights. This finding shows how a lack of basic political liberties can undermine a country's ability to improve integration policy. Members cannot be representative of foreign residents when this group cannot form associations to represent their interests.

There is a very strong correlation between consultative bodies and financial support for migrant associations: whether or not robust consultative bodies are established in a country is linked to whether or not migrant associations have access to funding at the different levels of governance. One interpretation of these findings could be that governments which fund the creation of migrant associations are more likely to consult with them. Another could be that the countries which organize consultations are more likely to grant funding to the migrant associations that participate. In any case, a member of a consultative body may encounter greater problems connecting with local communities when government does not inform them of these opportunities and encourage them to organize.

Consultative bodies are often dismissed as a poor replacement for civic participation in mainstream politics. Countries with full voting rights (all can participate at local/regional levels) also have strong and independent consultative bodies. Similarly, a trade-off is often presented in debates between opening political opportunities to foreigners versus opening clearer paths to citizenship. The argument is that countries with inclusive access to nationality do not need to extend voting rights or bodies. In fact, the two are very much related. Countries that encourage migrants to become active in local political life and improve national integration policy also encourage them to become full national citizens. Looking deeper, the countries that grant greater political opportunities are specifically those that grant naturalization after a few years and some form of *ius soli* citizenship (citizenship entitlement for foreigners' children or grandchildren born in the country). For instance, Greece not only reformed its nationality law, but also created migrant integration councils and extended the local right to vote and stand in elections. In general, countries that promote migrant political participation are also working to promote migrants' participation in many other areas of life.

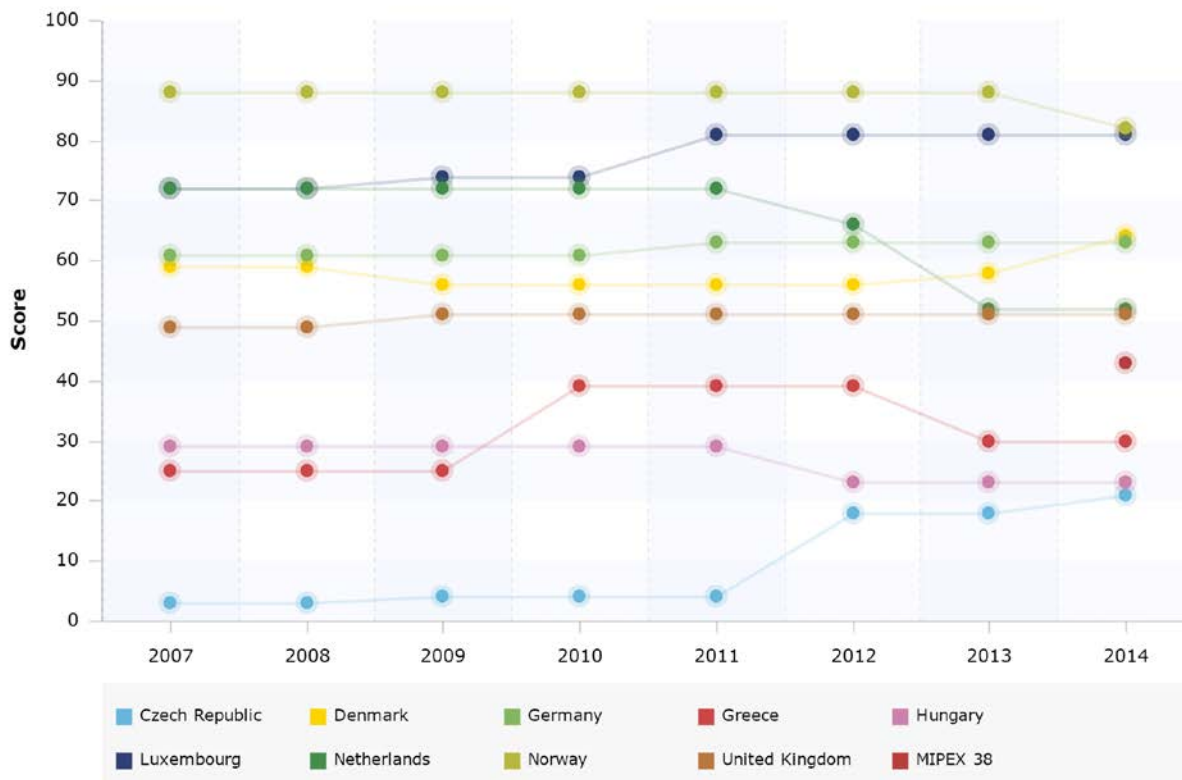
Developments in each of the discussed areas of political participation are needed to allow (non-EU) foreign nationals the possibility to become active citizens – namely, electoral rights, political liberties,

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<sup>90</sup> Jacobs et al., 2009, *op. cit.*

consultative bodies and implementation policies. Among the few major changes in recent years, Denmark and Luxembourg took a greater lead, while Norway and the Netherlands undermined this area of strength in their integration policies. The Czech Republic, one new country of migration, started the process of political participation, while Hungary has further restricted opportunities for foreigners.

**Figure: Political Participation Strand**



Source: MIPEX

**B. Access to nationality for migrants and their descendants**

Europe-wide mappings of national policies on the acquisition of nationality and its links to migration can be found at the European observatory on citizenship<sup>91</sup> which provides information on citizenship norms, laws, policy and analysis, and up-to-date official statistics on the acquisition and loss of nationality in 42 European states (covering, in addition to the EU 28, the following OSCE participating States: Albania, Bosnia and Herzegovina, Iceland, Lichtenstein, Moldova, Montenegro, Norway, the Russian Federation, Serbia, Switzerland, Turkey and Ukraine) and Kosovo<sup>92</sup>.

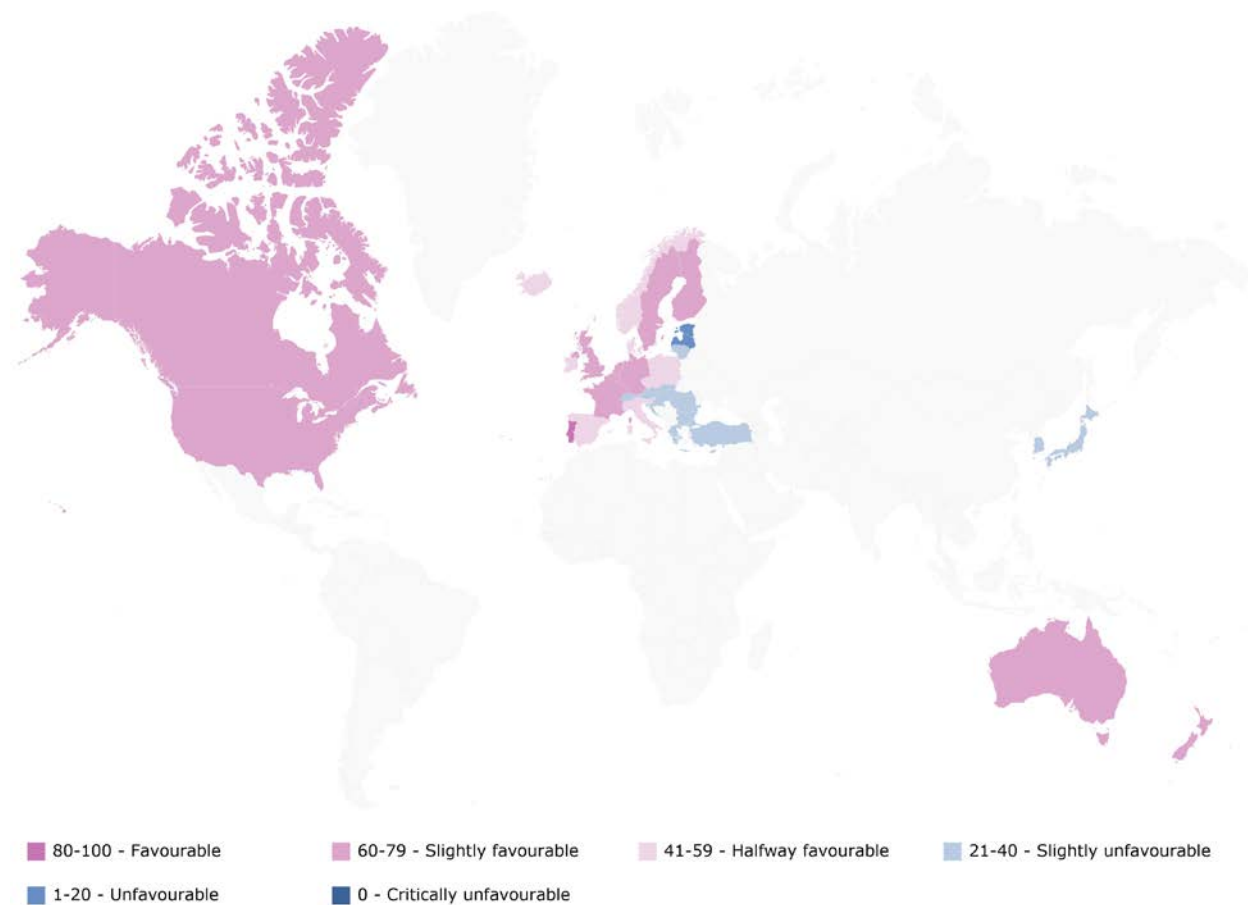
As in previous editions, MIPEX 2014 measures ‘Access to nationality’ according to four dimensions:

<sup>91</sup> Full details are available on the Observatory’s website, <http://eudo-citizenship.eu>.

<sup>92</sup> All references to Kosovo, whether to the territory, institutions or population, in this text should be understood in full compliance with United Nations Security Council Resolution 1244.

- Eligibility: how long do migrants have to wait to apply for citizenship? Are their children and grandchildren nationals at birth?
- Conditions for acquisition: Does the state facilitate the naturalization requirements?
- Security of status: How easily can naturalized migrant lose their nationality?
- Dual nationality: Can migrants maintain the citizenship of their country of origin?

For access to nationality, eligibility, conditions for acquisition and security of status in the EU-28 are found to be ‘halfway favourable’ for promoting integration, while dual nationality scores ‘slightly favourable’ on the MIPEX rubric. While these developments reflect some improvements over the past years, naturalization policies remain a major weakness in national integration policies for many countries. The highly discretionary and costly path to citizenship often discourages rather than encourages migrants to apply and succeed as new citizens. The local and regional level has rarely stepped into the process to inform, inspire and support migrants to become citizens, despite the obvious importance for their enfranchisement as full local, regional and national citizens.



Ranking 2014		Score	Ranking 2014		Score	Ranking 2014		Score
1	Portugal	86	14	Ireland	59	27	Turkey	34
2	Sweden	73	15	Denmark	58	27	Greece	34
3	Germany	72	16	Poland	56	27	Malta	34
4	New Zealand	71	17	Iceland	53	27	Romania	34
5	Australia	69	18	Norway	52	31	Croatia	31
5	Belgium	69	19	Italy	50	31	Hungary	31
7	Luxembourg	68	20	Czech Republic	49	31	Switzerland	31
8	Canada	67	21	Spain	48	34	Austria	26
9	Netherlands	66	22	Slovenia	41	35	Slovakia	25
10	Finland	63	23	Japan	37	36	Bulgaria	21
11	USA	61	23	Cyprus	37	37	Estonia	18
11	France	61	25	South Korea	36	38	Latvia	17
13	United Kingdom	60	26	Lithuania	35			

The highest-scoring countries tend to limit the first generation residence requirement to five years or less, grant automatic *ius soli* to at least the third-generation, avoid economic resource requirements, protect against statelessness, and embrace dual nationality. Even so, it should be kept in mind that still only Portugal's policy scored high enough to be considered 'favourable' for promoting integration. On the other end of the MIPEX scale, as of the end of 2014 Estonia and Latvia received an 'unfavourable' score.<sup>93</sup> The restrictiveness of these policies may also be the cause of some of the lowest naturalization rates in Europe while being home for the highest shares of non-EU citizens eligible to naturalize, as nearly all are long-settled and meet the residence requirements (>90%). To the less favourable aspects mentioned for the EU average are added employment-related criteria, integration conditions, and few procedural safeguards taking into account a migrant's personal circumstances.

<sup>93</sup> This being said, the 2015 amendments to Estonia's Citizenship Act is an important step to reduce statelessness among non-citizens and will be assessed in the overall country-specific assessment in the next MIPEX.

*Table: State of play of access to nationality policies in MIPEX-assessed OSCE participating States*

	Years of residence	Language level, CEFR	Sufficient courses to succeed	Integration requirement	Sufficient courses to succeed	Total fees
AT	10	B1	N	Test	N	1000+
AU	4	≈A2	Some (AMES)	Test	Y	210
BE	5	A2	TBD	Course	TBD	150
BG	5 (+5)	A2	N	No		175
CA	4	≈A2	Y	Test	Y	220
HR	8	B1	N	Test	N	200
CY	7	A2	N	No		550
CZ	10	B1	N	Test	N	72
DK	9	B1	Y	Test	N	134
EE	8	B1	Y	Test	Y	13
FI	5	B1	Y	No		350
FR	5	B1	Some (CAI)	Interview	N	55
DE	8	B1	Y	Test	Y	255
GR	7	A2	N	Interview	N	700
HU	8 (+3)	High (no standards)	N	Interview	N	0
IS	7	A1/A2	Some	No		150
IE	5	No		No		950
IT	10	High (no standards)		Interview	N	200
LV	5 (+5)	B1	N	Test	N	30
LT	10	A2	N	Test	N	0
LU	7	A2/B1	Y	Course	Y	4
MT	5	High (no standards)	N	No		70
NL	5	A2	N	Test	N	789
NO	7	Course (550h) or A2	Some	Course (50h)	N	315
PL	3 (+5)	B1	N	No		50
RO	8	High (no standards)	N	Interview	N	45
SI	10	A2	Y	No		150
SK	10	High (no standards)	N	Test	N	664
ES	10	High (no standards)	N	Interview	N	0
SE	5	No		No		160
CH	10	High (no standards)	N	Interview	N	1000+
TU	5	High (no standards)	N	Interview	N	36
UK	5	B1	Some (ESOL)	Test	N	1235
US	5	Low (no standards)	N	Interview	N	625

Source: MIPEX 2015

Among the non-EU-28 OSCE participating States covered by the European observatory's research on citizenship<sup>94</sup>, Lichtenstein, Switzerland, Moldova and Montenegro comparably have the most stringent residence requirements for naturalization (30, 12, 10 and 10 years, respectively). Foreign nationals resident in the Russian Federation require five years of residence after receiving permanent residence permission (which may take years to qualify for). Norway and Iceland have a requirement of seven years in place while Serbia, Bosnia and Herzegovina, Albania and Ukraine all have residence requirements comparable to EU Member States, varying between three to five years.

One much discussed trend in Northwestern Europe is the introduction of language and integration tests. Individual assessments of language ability, civic knowledge, or 'integration' are increasingly made conditions not only for access to nationality, but also for long-term residence and for family reunion, sometimes administrated abroad as a condition for entry. The rationale for this testing is that compulsory assessments or tests provide incentives to learn the country's language and develop cultural knowledge of the country. However, other countries like Belgium and Sweden have removed or simplified such assessments, viewing them as legal deterrents that enhance administrative discretion and serve policy goals other than integration. The standards and effects of these recently adopted citizenship conditions need to be evaluated for their efficiency and ultimate effectiveness before being confirmed as integration incentives. Available comparable data on non-EU-28 OSCE participating States reveals that Moldova, Switzerland and Iceland have the strictest language standards, requiring a formal written test at B2-level or a test with a written component<sup>95</sup>. Liechtenstein, Bosnia and Herzegovina, Albania, the Russian Federation, Ukraine, Montenegro and Turkey also have language requirements for acquisition of citizenship, however the required proficiency is either at a lower level or the testing situation is less formal, for example in the form of an interview. Ireland, Sweden and Serbia have no language skill requirement for citizenship.

This area of weakness and divergence is also highly dynamic (see Figure below). Only a few countries have not yet caught up with international reform trends on dual nationality (25 MIPEX-assessed countries, now Czech Republic, Denmark and Poland and by exception now in Bulgaria, Germany, Latvia and Lithuania) as well as on citizenship entitlements for children at or after birth (18 MIPEX countries, most recently Czech Republic and Denmark). Basic elements of the rule of law also now apply across most countries, such as the right to a reasoned decision and appeal (31 MIPEX countries, most recently Belgium, Greece, Luxembourg and Poland). Since 2010, reform efforts were completely undermined in Greece, while policies were slightly restricted in the Netherlands and, to some extent, Belgium. At the same time, migrants' opportunities to become citizens have improved in 11 countries from all corners of Europe, with significant reforms accomplished in Denmark and Poland. Since 2012, migrants in Poland have enjoyed a secure path to citizenship (including a dual nationality option), bringing Poland up to the EU average. In 2013, Denmark finally followed international trends and opened up to birthright citizenship, followed by dual nationality in 2014, although migrants are still confronted with higher language and economic resource requirements in Denmark than in most European countries. However, other countries have reversed earlier moves to improve citizenship access: in 2013, Greece's Council of State annulled the major 2010 reform that had brought Greece up to the EU average. Migrants and their

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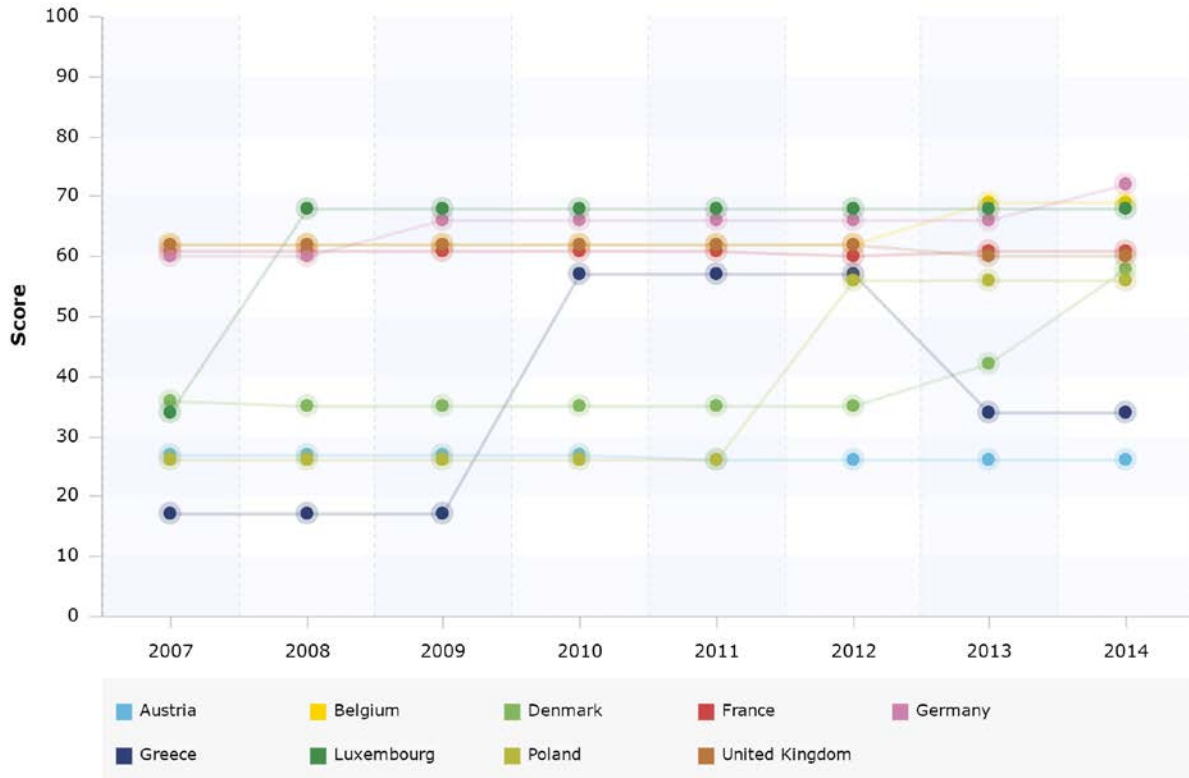
<sup>94</sup>Kristen Jeffers, Iseult Honohan, and Rainer Bauböck, "CITLAW Indicators: How to Measure the Purposes of Citizenship Laws," San Domenico di Fiesole: EUDO CITIZENSHIP Observatory, 2012.

<sup>95</sup> Idem.



Greece-born children again face one of the most restrictive naturalization policies compared to the other major destinations in northern or southern Europe.

**Figure: Access to Nationality Strand**



Source: MIPEX

Estimates show that in most European countries, more than half of the non-EU citizen adults have lived there long enough to become citizens and an important share of eligible applicants are second generation adults born and raised in EU Member States. These findings suggest that migrants are not sufficiently seizing the opportunities to have their voices heard. Full citizenship is within reach for many migrants in Europe and it is important to recognize the role ‘citizenship campaigns’ can play in stimulating the political participation of migrants as citizens. While the best windows of opportunity for citizenship campaigns are in countries and for migrant groups with voting rights, facilitated naturalization procedures, and the option of dual nationality, MPG research has found that naturalization is promoted by very few national governments or NGOs. Most promotional measures are few and poor quality, even in countries with liberal naturalization laws. Integration actors cannot have inclusive integration and social policies without promoting migrant naturalization and electoral participation at regional and national level, where most integration and social policies are decided. Where the legislation is favourable, governments and NGOs should seize the opportunity to inform, encourage, and support migrants to become citizens and voters. Inspired by good practices in the US and Europe, a transnational network of practitioners have developed a model for citizenship campaigns for migrants in Europe, that aims to

inform and encourage thousands of migrants to become citizens, register to vote, participate in politics and turn out for elections.<sup>96</sup>

Voluntary citizenship ceremonies, still rare across the EU, are also being introduced in some Austrian provinces, Denmark, Estonia, France, the Netherlands, Ireland and the UK. Ceremonies can be designed as a platform for awareness raising and, specifically, giving voice to new citizens, recruiting new volunteers, and registering new voters. Most of these ceremonies do not include requirements that would exclude migrants from participating or receiving their citizenship (i.e. exclusion of those wearing a headscarf).

The research project ‘Access to Citizenship and its Impact on Immigrant Integration’ (ACIT) has compared how European states regulate the acquisition of citizenship and the impact of citizenship on the socio-economic and political participation of migrants. Within the framework of this project, researchers developed a set of citizenship indicators on the implementation of citizenship laws (CITIMP).

The following list presents the five dimensions and the number of corresponding indicators and sub-indicators:

- Promotion: how much do authorities encourage eligible applicants to apply?
- Documentation: how easy is it for applicants to prove that they meet the legal conditions?
- Discretion: how much room do authorities have to interpret the legal conditions?
- Bureaucracy: how easy is it for authorities to come to a decision?
- Review: how strong is judicial oversight of the procedure?

The results suggest that most countries’ procedures contain as many obstacles as opportunities for ordinary naturalisation, with many clear patterns across Europe. Promotional measures are often missing or poor quality. Legal exemptions for documentation rarely exist on humanitarian or vulnerability grounds. Documentation from countries of origin is especially complicated for applicants. Not only are most ordinary naturalization procedures discretionary, but so are many language, integration and economic resource requirements. Most procedures involve potentially long processing times and some amount of bureaucracy, especially when the deciding authority is the executive or legislature. Judicial review is often not guaranteed for language or integration requirements or on specific issues such as discrimination within the procedure.

Ordinary naturalization procedures are generally more favourable in established countries of migration or other countries that liberalised their laws. Countries in the North and Northwest of Europe often have stronger judicial review and, to some extent, less bureaucracy and documentation requirements. New and smaller countries of migration, mostly in Central or Southern Europe, often have weaker judicial review and more discretion in procedures not only for naturalization. In addition, countries tend to have more favourable procedures if they liberalised their ordinary naturalization law in recent years. Compared to other countries in their regions, Finland, Germany, Greece, Luxembourg, Portugal and Sweden have easier procedures, including strong judicial review, limited discretion and bureaucracy and more promotion measures. The absence of liberal citizenship reform helps to explain the complicated procedures in Austria, Ireland, Italy and Switzerland. The two clear exceptions in Europe are Estonia and Latvia, due to the exceptional situation of the many stateless Russophones.

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<sup>96</sup> For more information please refer to the resources and discussion on the Migration Policy Group website: <http://www.migpolgroup.com/diversity-integration/immigrant-citizenship-campaigns/>.

Exploring further the relationship between naturalization and integration policies, strong empirical evidence in Europe suggests that extending membership and rights is generally used as complementary, rather than alternative, means to migrant integration<sup>97</sup>. While the analysis does not invalidate the ‘alternative’ view as a normative stance (granting access to formal membership through naturalization as an alternative to granting social and political rights, independent of citizenship status), it does suggest that it comes with political constraints as, in reality, it is rarely practiced in Europe.

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<sup>97</sup> Thomas, Huddleston and Maarten P. Vink, “Full membership or equal rights? The link between naturalisation and integration policies for immigrants in 29 European states”, *Comparative Migration Studies*, vol. 3(1), no.1, 2015.

## **ANNEX 1 – EXCERPTS ON CIVIC AND POLITICAL RIGHTS**

### **Excerpts from international human rights legal instruments related to the civic and political rights of foreigners (Da Costa 2006)**

#### **International Covenant on Civil and Political Rights**

##### **Article 2**

*1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. [...]*

##### **Article 3**

*The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant. [...]*

##### **Article 19**

- 1. Everyone shall have the right to hold opinions, without interference.*
- 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*
- 3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall be such as are provided by law and are necessary:  
(a) For respect of the rights or reputation of others;  
(b) For the protection of national security or of public order or of public health and morals.*

##### **Article 20**

- 1. Any propaganda for war shall be prohibited by law.*
- 2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. [...]*

##### **Article 21**

*The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.*

##### **Article 22**

- 1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.*
- 2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in the exercise of this right.*
- 3. Nothing in this article shall authorize States Parties to the International Labour Organization Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice the guarantees provided for in that Convention. [...]*

### **Article 27**

*In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.*

## **Convention on the Elimination of All Forms of Discrimination against Women**

### **Article 3**

*States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.*

## **International Convention on the Elimination of All Forms of Racial Discrimination**

### **Article 5**

*In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:*

*[...]*

*(c) Political rights [...]*

*(d) Other civil rights, in particular:*

*[...]*

*(vii) The right to freedom of thought, conscience and religion;*

*(viii) The right to freedom of opinion and expression;*

*(ix) The right to freedom of peaceful assembly and association;*

*(e) Economic, social and cultural rights, in particular:*

*[...]*

*(vi) The right to equal participation in cultural activities; [...]*

/RES/45/158. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 18 December 1990

### **Article 1**

1. The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

### **Article 26**

1. States Parties recognize the right of migrant workers and members of their families:

(a) To take part in meetings and activities of trade unions and of any other associations established in accordance with law, with a view to protecting their economic, social, cultural and other interests, subject only to the rules of the organization concerned;

(b) To join freely any trade union and any such association as aforesaid, subject only to the rules of the organization concerned;

(c) To seek the aid and assistance of any trade union and of any such association as aforesaid.

2. No restrictions may be placed on the exercise of these rights other than those that are prescribed by law and which are necessary in a democratic society in the interests of national security, public order (ordre public) or the protection of the rights and freedoms of others.

#### Article 40

1. Migrant workers and members of their families shall have the right to form associations and trade unions in the State of employment for the promotion and protection of their economic, social, cultural and other interests.

2. No restrictions may be placed on the exercise of this right other than those that are prescribed by law and are necessary in a democratic society in the interests of national security, public order (ordre public) or the protection of the rights and freedoms of others.

#### Article 41

1. Migrant workers and members of their families shall have the right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State, in accordance with its legislation.

2. The States concerned shall, as appropriate and in accordance with their legislation, facilitate the exercise of these rights.

#### Article 42

...

3. Migrant workers may enjoy political rights in the State of employment if that State, in the exercise of its sovereignty, grants them such rights.

### **The European Convention on Human Rights and its Five Protocols**

#### **ARTICLE 9**

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or the protection of the rights and freedoms of others.

#### **ARTICLE 10**

1. Everyone has the right to freedom of expression. this right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or the rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

## **ARTICLE 11**

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. this article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

## **ARTICLE 14**

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

## **ARTICLE 16**

Nothing in Articles 10, 11, and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens.

## **The Convention on the Participation of Foreigners in Public Life at Local Level, Strasbourg, 5.II.1992**

### **Preamble**

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress while respecting human rights and fundamental freedoms;

Reaffirming their commitment to the universal and indivisible nature of human rights and fundamental freedoms based on the dignity of all human beings;

Having regard to Articles 10, 11, 16 and 60 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Considering that the residence of foreigners on the national territory is now a permanent feature of European societies;

Considering that foreign residents generally have the same duties as citizens at local level;

Aware of the active participation of foreign residents in the life of the local community and the development of its prosperity, and convinced of the need to improve their integration into the local community, especially by enhancing the possibilities for them to participate in local public affairs,

Have agreed as follows:

### **Part I**

#### **Article 1**

1. Each Party shall apply the provisions of Chapters A, B, and C. However, any Contracting State may declare, when depositing its instrument of ratification, acceptance, approval or accession, that it reserves the right not to apply the provisions of either Chapter B or Chapter C or both.
2. Each Party which has declared that it will apply one or two chapters only may, at any subsequent time, notify the Secretary General that it agrees to apply the provisions of the chapter or chapters which it had not accepted at the moment of depositing its instrument of ratification, acceptance, approval or accession.

## **Article 2**

For the purposes of this Convention, the term "foreign residents" means persons who are not nationals of the State and who are lawfully resident on its territory.

## **Chapter A – Freedoms of expression, assembly and association**

### **Article 3**

Each Party undertakes, subject to the provisions of Article 9, to guarantee to foreign residents, on the same terms as to its own nationals:

- a. the right to freedom of expression; this right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises;
- b. the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of their interests. In particular, the right to freedom of association shall imply the right of foreign residents to form local associations of their own for purposes of mutual assistance, maintenance and expression of their cultural identity or defence of their interests in relation to matters falling within the province of the local authority, as well as the right to join any association.

### **Article 4**

Each Party shall endeavour to ensure that reasonable efforts are made to involve foreign residents in public inquiries, planning procedures and other processes of consultation on local matters.

## **Chapter B – Consultative bodies to represent foreign residents at local level**

### **Article 5**

1. Each Party undertakes, subject to the provisions of Article 9, paragraph 1:
  - a. to ensure that there are no legal or other obstacles to prevent local authorities in whose area there is a significant number of foreign residents from setting up consultative bodies or making other appropriate institutional arrangements designed:
    - i. to form a link between themselves and such residents,
    - ii. to provide a forum for the discussion and formulation of the opinions, wishes and concerns of foreign residents on matters which particularly affect them in relation to local public life, including the activities and responsibilities of the local authority concerned, and
    - iii. to foster their general integration into the life of the community;
  - b. to encourage and facilitate the establishment of such consultative bodies or the making of other appropriate institutional arrangements for the representation of foreign residents by local authorities in whose area there is a significant number of foreign residents.
2. Each Party shall ensure that representatives of foreign residents participating in the consultative bodies or other institutional arrangements referred to in paragraph 1 can be elected by the foreign residents in the local authority area or appointed by individual associations of foreign residents.

## **Chapter C – Right to vote in local authority elections**

### **Article 6**

1. Each Party undertakes, subject to the provisions of Article 9, paragraph 1, to grant to every foreign resident the right to vote and to stand for election in local authority elections, provided that he fulfils the same legal requirements as apply to nationals and furthermore has been a lawful and habitual resident in the State concerned for the 5 years preceding the elections.
2. However, a Contracting State may declare, when depositing its instrument of ratification, acceptance, approval or accession, that it intends to confine the application of paragraph 1 to the right to vote only.

### **Article 7**

Each Party may, either unilaterally or by bilateral or multilateral agreement, stipulate that the residence requirements laid down in Article 6 are satisfied by a shorter period of residence.



## **Part II**

### **Article 8**

Each Party shall endeavour to ensure that information is available to foreign residents concerning their rights and obligations in relation to local public life.

### **Article 9**

1. In time of war or other public emergency threatening the life of the nation, the rights accorded to foreign residents under Part I may be subjected to further restrictions to the extent strictly required by the exigencies of the situation, provided that such restrictions are not inconsistent with the Party's other obligations under international law.
2. As the right recognised by Article 3.a carries with it duties and responsibilities, it may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.
3. The right recognised by Article 3.b may not be subject to any restrictions other than such as are prescribed by law and are necessary in a democratic society, in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.
4. Any measure taken in accordance with the present article must be notified to the Secretary General of the Council of Europe, who shall inform the other Parties. The same procedure shall apply when such measures are revoked.
5. Nothing in this Convention shall be construed as limiting or derogating from any of the rights which may be guaranteed under the laws of any Party or under any other treaty to which it is a party.

## **The European Convention on Nationality, Strasbourg, 6.XI.1997**

### **Preamble**

The member States of the Council of Europe and the other States signatory to this Convention,  
Considering that the aim of the Council of Europe is to achieve greater unity between its members;  
Bearing in mind the numerous international instruments relating to nationality, multiple nationality and statelessness;  
Recognising that, in matters concerning nationality, account should be taken both of the legitimate interests of States and those of individuals;  
Desiring to promote the progressive development of legal principles concerning nationality, as well as their adoption in internal law and desiring to avoid, as far as possible, cases of statelessness;  
Desiring to avoid discrimination in matters relating to nationality;  
Aware of the right to respect for family life as contained in Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms;  
Noting the varied approach of States to the question of multiple nationality and recognising that each State is free to decide which consequences it attaches in its internal law to the fact that a national acquires or possesses another nationality;  
Agreeing on the desirability of finding appropriate solutions to consequences of multiple nationality and in particular as regards the rights and duties of multiple nationals;  
Considering it desirable that persons possessing the nationality of two or more States Parties should be required to fulfil their military obligations in relation to only one of those Parties;  
Considering the need to promote international co-operation between the national authorities responsible for nationality matters,

Have agreed as follows:

## **Chapter I – General matters**

### **Article 1 – Object of the Convention**

This Convention establishes principles and rules relating to the nationality of natural persons and rules regulating military obligations in cases of multiple nationality, to which the internal law of States Parties shall conform.

### **Article 2 – Definitions**

For the purpose of this Convention:

- a. "nationality" means the legal bond between a person and a State and does not indicate the person's ethnic origin;
- b. "multiple nationality" means the simultaneous possession of two or more nationalities by the same person;
- c. "child" means every person below the age of 18 years unless, under the law applicable to the child, majority is attained earlier;
- d. "internal law" means all types of provisions of the national legal system, including the constitution, legislation, regulations, decrees, case-law, customary rules and practice as well as rules deriving from binding international instruments.

## **Chapter II – General principles relating to nationality**

### **Article 3 – Competence of the State**

1. Each State shall determine under its own law who are its nationals.
2. This law shall be accepted by other States in so far as it is consistent with applicable international conventions, customary international law and the principles of law generally recognised with regard to nationality.

### **Article 4 – Principles**

The rules on nationality of each State Party shall be based on the following principles:

- a. everyone has the right to a nationality;
- b. statelessness shall be avoided;
- c. no one shall be arbitrarily deprived of his or her nationality;
- d. neither marriage nor the dissolution of a marriage between a national of a State Party and an alien, nor the change of nationality by one of the spouses during marriage, shall automatically affect the nationality of the other spouse.

### **Article 5 – Non-discrimination**

1. The rules of a State Party on nationality shall not contain distinctions or include any practice which amount to discrimination on the grounds of sex, religion, race, colour or national or ethnic origin.
2. Each State Party shall be guided by the principle of non-discrimination between its nationals, whether they are nationals by birth or have acquired its nationality subsequently.

## **Chapter III – Rules relating to nationality**

### **Article 6 – Acquisition of nationality**

1. Each State Party shall provide in its internal law for its nationality to be acquired *ex lege* by the following persons:
  - a. children one of whose parents possesses, at the time of the birth of these children, the nationality of that State Party, subject to any exceptions which may be provided for by its internal law as regards children born abroad. With respect to children whose parenthood is established by recognition, court order or similar procedures, each State Party may provide that the child acquires its nationality following the procedure determined by its internal law;
  - b. foundlings found in its territory who would otherwise be stateless.
2. Each State Party shall provide in its internal law for its nationality to be acquired by children born on its territory who do not acquire at birth another nationality. Such nationality shall be granted:
  - a. at birth *ex lege*; or

- b. subsequently, to children who remained stateless, upon an application being lodged with the appropriate authority, by or on behalf of the child concerned, in the manner prescribed by the internal law of the State Party. Such an application may be made subject to the lawful and habitual residence on its territory for a period not exceeding five years immediately preceding the lodging of the application.
- 3. Each State Party shall provide in its internal law for the possibility of naturalisation of persons lawfully and habitually resident on its territory. In establishing the conditions for naturalisation, it shall not provide for a period of residence exceeding ten years before the lodging of an application.
- 4. Each State Party shall facilitate in its internal law the acquisition of its nationality for the following persons:
  - a. spouses of its nationals;
  - b. children of one of its nationals, falling under the exception of Article 6, paragraph 1, subparagraph a;
  - c. children one of whose parents acquires or has acquired its nationality;
  - d. children adopted by one of its nationals;
  - e. persons who were born on its territory and reside there lawfully and habitually;
  - f. persons who are lawfully and habitually resident on its territory for a period of time beginning before the age of 18, that period to be determined by the internal law of the State Party concerned;
  - g. stateless persons and recognised refugees lawfully and habitually resident on its territory.

#### **Chapter IV – Procedures relating to nationality**

##### **Article 10 – Processing of applications**

Each State Party shall ensure that applications relating to the acquisition, retention, loss, recovery or certification of its nationality be processed within a reasonable time.

##### **Article 11 – Decisions**

Each State Party shall ensure that decisions relating to the acquisition, retention, loss, recovery or certification of its nationality contain reasons in writing.

##### **Article 12 – Right to a review**

Each State Party shall ensure that decisions relating to the acquisition, retention, loss, recovery or certification of its nationality be open to an administrative or judicial review in conformity with its internal law.

##### **Article 13 – Fees**

1. Each State Party shall ensure that the fees for the acquisition, retention, loss, recovery or certification of its nationality be reasonable.
2. Each State Party shall ensure that the fees for an administrative or judicial review be not an obstacle for applicants.

#### **Chapter V – Multiple nationality**

##### **Article 14 – Cases of multiple nationality**

1. A State Party shall allow:
  - a. children having different nationalities acquired automatically at birth to retain these nationalities;
  - b. its nationals to possess another nationality where this other nationality is automatically acquired by marriage.
2. The retention of the nationalities mentioned in paragraph 1 is subject to the relevant provisions of Article 7 of this Convention.

##### **Article 15 – Other possible cases of multiple nationality**

The provisions of this Convention shall not limit the right of a State Party to determine in its internal law whether:

- a. its nationals who acquire or possess the nationality of another State retain its nationality or lose it;
- b. the acquisition or retention of its nationality is subject to the renunciation or loss of another nationality.

## **State of democracy in Europe: Measures to improve the democratic participation of migrants**

Parliamentary Assembly

**Doc. 11625**

6 June 2008

Report

Committee on Migration, Refugees and Population

Rapporteur: Mr John GREENWAY, United Kingdom, European Democrat Group

### *Summary*

Levels of democratic participation in Europe are low. For migrants they are even lower.

The Committee on Migration, Refugees and Population considers it important that migrants be given a “fair share” in the democratic process and that steps are taken to allow them to participate more effectively in society.

Integration is a key to democratic participation of migrants and this needs to be a two-way process involving both migrant communities and the general population. The Committee on Migration, Refugees and Population puts forward recommendations to encourage the integration of both migrant men and migrant women in key areas such as education, language learning, creation of bridges between communities, within communities and with the authorities. It also makes recommendations to tackle racism, intolerance and discrimination and to promote integration at work and in housing.

A range of legal and policy measures can be taken to improve the democratic participation of migrants. The Committee puts forward proposals for facilitating access to nationality, granting long term residence status, regularising the situation of certain irregular migrants, granting voting rights to migrants at least at local level, and also ensuring that consultative bodies are established to ensure that migrants have a say and are consulted in matters affecting them.

The Committee calls for the ratification, where this had not been done by member states, of the Conventions on the Legal Status of Migrant Workers, on Nationality and on the Participation of Foreigners in Public Life at Local Level, and invites the relevant intergovernmental committees of the Council of Europe to analyse the implementation and barriers to the ratification of these Conventions.

The Committee also calls for an examination of restrictions on political rights of migrants (such as freedom of association) and invites the Bureau of the Parliamentary Assembly to consider how persons of migrant origin can be better represented within the Assembly itself.

### **A. Draft resolution**

1. According to the International Organisation for Migration there are over 64.1 million migrants in Europe and the number is constantly increasing. As this number increases so does the need to make sure that migrants are given a “a fair share” in the democratic process in Europe.
2. The level of democratic participation across Europe remains low, and particularly low for migrants.
3. Integration is a key for migrants’ democratic participation. It not only facilitates participation but it also leads to a better understanding of shared values and respect for cultural differences which are essential for democratic development. It should always be regarded as a two way process involving migrants and the majority population.
4. Democratic participation is important for all individuals in society including migrants of first or later generations. For migrants, the earlier their opportunity for democratic participation the more likely they are to participate and integrate.

5. Migrants are not a homogenous group. They have different nationalities and ethnicities and they come to Europe for different reasons. Some come for work, studies, family reunion or to flee persecution or as victims of trafficking. A large number are irregular migrants. There are first and later generation migrants. Almost half the migrants in Europe are women.

6. Democratic participation can take many forms. It can include political participation through voting and standing for election, it can include exercising rights such as freedom of expression, thought, conscience and religion. It can cover freedom of association, including participation in political parties, joining trade unions and participation in demonstrations. Furthermore it can include participation in civil society, whether in migrant dedicated associations or other associations with wider remits including sports, arts, charity, philosophy or religion.

7. Democratic participation can take place at European, national, regional or local level. In practice it is at the local level that migrants' participation is the most important and effective. The Congress of Local and Regional Authorities of the Council of Europe thus has a particularly role to play at this level and has undertaken important work in the past including on the establishment of local consultative bodies for foreign residents. The European Commission for Democracy through Law (the Venice Commission) also has a role to play, having drafted a code of good practice in electoral matters.

8. The Parliamentary Assembly recalls its most recent Recommendation 1500 (2001) on Participation of immigrants and foreign residents in political life in the Council of Europe member states. It also notes the important standard setting of the Council of Europe through Conventions on the Legal Status of Migrant Workers (ETS No. 93), on Nationality (ETS No. 166) and on the Participation of Foreigners in Public Life at Local Level (ETS No. 144).

9. The Assembly recognises that much good practice has developed concerning the democratic participation of migrants. Drawing on this and with the intention of improving the integration and democratic participation of migrants across Europe, the Assembly calls on member states of the Council of Europe to:

9.1. encourage integration as a facilitator for democratic participation of both women and men through;

9.1.1. promoting integration as a non-discriminatory two-way process, with measures to combat racism and discrimination and encourage inclusiveness (such as diversity training for those working with migrants and benchmarking to ensure inclusiveness), steps to make members of the majority population aware of the different cultures of migrants and the need to avoid stigmatisation of migrants in the integration debate;

9.1.2. education and learning the language of the host society. This is particularly important for women and new arrivals who should be provided with literacy courses, language training, civic awareness programmes and labour market training;

9.1.3. protecting rights and guaranteeing safety and stability. Particular attention should be paid to tackling racism, xenophobia, antisemitism, islamophobia and intolerance, paying attention at the same time to gender based discrimination and violence against women. Adequate follow-up should be given to the recommendations of the European Commission Against Racism and Intolerance (ECRI);

9.1.4. creating social bridges between communities including in areas such as sports and education and cultural, philosophical and religious activities;

9.1.5. creating social bonds within communities as a means of building confidence and acting as a stepping stone for other forms of participation;

9.1.6. creating social links to services and the communities to avoid exclusion and discrimination and to ensure that both women and men migrants are involved in the design and implementation of policies that affect them. Migrants should be represented and employed at all levels of administration and member states should consider establishing, where they do not exist, specialised ministries or departments of integration and mainstreaming integration issues within all relevant departments;

9.1.7. providing assistance in integrating into the work-place, security in employment, flexibility in changing employment and work permits and recognising the skills and qualifications of migrants. Special attention should be paid to migrant women who often work in areas where they may face exploitation, including in the informal economy;

9.1.8. providing fair access to quality housing achieving balanced neighbourhoods and preventing and reducing segregation;

9.2. remove the impediments to democratic participation by:

9.2.1. facilitating access to nationality through:

9.2.1.1. reducing residency requirements for acquisition of nationality to five years or less;

9.2.1.2. ensuring that other requirements such as naturalisation tests, language tests, income and housing requirements, fees, oaths do not become unduly onerous in their number and requirements;

9.2.1.3. removing or reducing restrictions on dual nationality;

9.2.1.4. taking into account the special situation of women and men refugees and their urgent need of nationality;

9.2.1.5. signing and ratifying the European Convention on Nationality;

9.2.1.6. ensuring that no unreasonable impediments to obtaining nationality are placed on second or later generation migrants;

9.2.2. granting long term residence status to those who have been in the country for five years or less without imposing extensive bureaucratic hurdles, high fees, onerous linguistic, housing, income or employment requirements;

9.2.3. regularising the situation of irregular migrants, who are not going to be returned to their countries of origin, in line with the Assembly Resolution 1568 (2007) on Regularisation programmes for irregular migrants;

9.2.4. granting to migrants voting rights, including the right to vote and the right to stand in local and regional elections after a residence period of 5 years or less;

9.2.5. signing and ratifying the Convention on the Participation of Foreigners in Public Life at Local Level;

9.2.6. lifting restrictions on the political rights of migrants to join political parties or form political associations and encourage political parties to include women and men of migrant background amongst their members;

9.3. facilitate participation by:

9.3.1. ensuring that migrants enjoy the right to consultation through the establishment of consultative bodies in accordance with the Convention on the Participation of Foreigners in Public Life at Local Level. These bodies should ensure they are representative of migrants and members of the local or other authorities and that women and men are represented equally. They should allow migrants and migrant associations the right to put forward candidates, have clearly defined objectives and should give priority to political activities including consultation and promotion of citizen participation. Furthermore these bodies should have the right to be informed and consulted and have the right to initiate consultation and receive a response;

9.3.2. supporting civil society initiatives for and by migrants which provide choices and options for migrants and lead to bridge building between communities and help create bonds within communities and facilitate links with the authorities. Particular attention should be paid to supporting initiatives coming from grassroots migrant women's organisations;

9.3.3. encouraging the media to portray a fair image of migrants and not stereotype them, taking also into account the double stereotyping that migrant women face in the media. Furthermore ensure that migrants are represented in the media as media professionals and that they are seen and that their views are heard;

9.3.4. supporting projects that encourage migrants and other members of the community to volunteer and participate in civil society;

9.3.5. supporting research on democratic participation of migrants, including, *inter alia*, research on good practices in participation and integration, barriers to participation, impact of integration and voting patterns of migrants;

9.4. ensure that irregular migrants are not excluded from all forms of democratic participation and that they enjoy their basic rights in accordance with Assembly Resolution 1509 (2006) on human rights of irregular migrants;

9.5. ensure the specific needs of women migrants are taken into account and distinguished from men in line with Assembly Recommendation 1732 (2006) and Resolution 1478 (2006) on Integration of immigrant women in Europe;

9.6. facilitate the increased democratic participation of migrants in their countries of origin.

10. The Assembly calls on the Congress of Local and Regional Authorities of the Council of Europe to continue its work on the participation of foreigners in public life at local level and in particular promote further the use of consultative bodies and the right to vote at a local level. Furthermore it calls on the Congress to further strengthen its activities encouraging the integration of migrants at the local level including through the European network of cities for local integration policies for migrants (CLIP).

11. The Assembly calls on the Council of Europe Commissioner for Human Rights to encourage member states to remove the impediments to democratic participation of migrants.

12. The Assembly invites the European Union to support, through the European Integration Fund, projects aimed both at integration and democratic participation of migrants. Support is also needed for projects providing indicators of democratic participation of migrants across greater Europe, gender-disaggregated where possible, and not just limited to the 27 member states of the European Union.

13. The Assembly invites its Bureau to consult the Committee on Rules of Procedure, Immunities and Institutional Affairs on whether any steps could be taken to ensure a better representation of persons of migrant origin in the membership of the Assembly.

## **B. Draft recommendation**

1. The Parliamentary Assembly refers to its Resolution ... (2008) on measures to improve the democratic participation of migrants.

2. The Council of Europe has an important role in promoting the democratic participation of migrants and has already contributed to this process, *inter alia*, through the adoption of Conventions on the Legal Status of Migrant Workers (ETS No. 93), on Nationality (ETS No. 166) and on the Participation of Foreigners in Public Life at Local Level (ETS No. 144).

3. The level of democratic participation of migrant women and men in Europe however remains low and further steps are needed to improve the situation, including through measures of integration which facilitate the participation of migrants in democratic life and society.

4. Therefore, the Assembly recommends that the Committee of Ministers:

4.1. instruct the European Committee on Local and Regional Democracy (CDLR) and its Committee of Experts on Democratic Participation and Public Ethics at Local and Regional Level (LR-DP) to analyse the implementation, in

all member states of the Council of Europe, of the standards laid out in the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144) and examine the obstacles for ratification of this instrument;

4.2. instruct the European Committee on Migration (CDMG) to examine how integration programmes and equal treatment and opportunity programmes in member states should be adapted in order to promote the democratic participation of migrants;

4.3. instruct the Steering Committee for Human Rights (CDDH) to examine the restrictions on the political rights of migrants (in particular the rights of migrants to join political parties or form political associations) with a view to furthering the democratic participation of migrant women and men;

4.4. instruct the European Committee on Legal Co-operation (CDCJ) to examine the implementation in all member states of the standards under the European Convention on Nationality and its state of ratifications;

4.5. instruct the Steering Committee for Equality between Women and Men (CDEG) to evaluate the democratic participation of migrant women and men when monitoring the implementation of Recommendation Rec (2003) 3 of the Committee of Ministers to member states on balanced participation of women and men in political and public decision making;

4.6. invite the European Commission for Democracy through Law (Venice Commission) to examine the constitutional impediments to granting the right to vote to migrants, primarily at the local and regional levels and provide assistance for constitutional reform to these states as necessary;

4.7. invite the European Commission against Racism and Intolerance (ECRI) to monitor continuing discrimination, racism and intolerance as a hindrance to the democratic participation of migrants, and respect its advice.

### **Recommendation 1500 (2001)[1]: Participation of immigrants and foreign residents in political life in the Council of Europe member states**

1. The Assembly acknowledges that lawful residence of non-citizens on national territory is now a permanent feature of European societies and that the number of long term immigrants and foreigners legally settled in Council of Europe member states is rising.

2. The Assembly underlines that the respect for human rights in Europe is independent of citizenship and country of origin. Principles of non-discrimination have been laid down in numerous international instruments binding for Council of Europe member states.

3. The Assembly is of the opinion that the presence of immigrants and foreign residents is an enriching and positive factor in our societies and everyday life.

4. The Assembly also stresses that democratic legitimacy requires equal participation by all groups of society in the political process, and that the contribution of legally resident non-citizens to a country's prosperity further justifies their right to influence political decisions in the country concerned.

5. The Assembly notes that many rights in Council of Europe member states, and most political rights in particular, may be enjoyed only by their own citizens. Moreover, non-European Union citizens living as foreigners in a European Union country are granted fewer rights than European Union citizens in the same situation.

6. Restrictive criteria may prevent legally resident non-citizens from acquiring the citizenship of the host country, depriving them of full participation in the life of the community and, in the worst case, pushing them to the margins of society.

7. Although the integration of immigrants and foreign residents has considerably increased in economic, social, cultural and educational terms, political participation has always given rise to controversy. Yet their participation in the political decision-making process promotes their integration in general, and facilitates their harmonious co-existence which is in the interest of both citizens and non-citizens in the host society. The lack of integration can be a source of social tension and conflict.



8. The Assembly is particularly concerned by the situation in some member countries of the Council of Europe, where the percentage of non-citizens in the population is high, and where no adequate structures or opportunities exist for their political participation.

9. The Assembly recalls and reaffirms its Recommendation 769 (1975) on the legal status of migrants, Recommendation 712 (1973) on the integration of migrant workers with the societies of their host countries, and Recommendation 799 (1977) on the political rights and position of aliens.

10. The Assembly welcomes the action of the Congress of Local and Regional Authorities of Europe (CLRAE) in this field, and in particular its Resolutions 243 (1993), 236 (1992), 183 (1987) and 134 (1982).

11. The Assembly recommends that the Committee of Ministers:

i. reappraise the desirable minimum standards for the treatment of non-citizens residing in a country, in particular concerning their political participation at all levels, with a view to granting the right to vote and stand in local elections to all legally established migrants irrespective of their origin, and invite member governments to take all appropriate action to ensure their implementation;

ii. pursue and organise exchanges of experience and information between the member states on this subject with the participation of representatives of immigrant communities;

iii. give greater priority to programmes aiming at the integration of foreign communities into the host society, with a particular view to preparing them for political participation and to promoting such participation by showing its positive effects for society as a whole;

iv. urge the governments of member states:

a. to grant the right to vote and stand in local elections to all migrants legally established for at least three years irrespective of their origin;

b. to review their national legislation with a view to making it more flexible and adequate to the needs of immigrants and foreign residents, giving particular attention to:

- the criteria for granting citizenship;

- the organisation of political participation at all levels;

c. to promote the action of migrants' organisations and associations and encourage the networking of their activities;

d. drawing from the positive experiences, to develop programmes aiming at the promotion of the political participation of migrants;

e. to ratify, if they have not yet done so, the European Convention on the Participation of Foreigners in Public Life at Local Level and the European Convention on Nationality.

12. The Assembly calls on the Congress of Local and Regional Authorities of Europe (CLRAE) to continue its action to promote the participation of immigrants in public life.

## **European Commission Handbook on Integration for policy-makers and practitioners, 2nd edition**

### **Chapter 2: Civic participation conclusions**

1. Strategies responding to immigrants' special needs and circumstances and capitalising on their skills enhance their sense of belonging and participation in society. Public and private organisations should base these strategies on equality and anti-discrimination. Ideally they are tailor-made, flexible and subject to regular evaluation.
2. Tailoring services to the special needs of different groups among the population is a collaborative effort requiring the development of intercultural competence in public and private service.
3. Recruitment and training are complementary strategies in building up staff with intercultural competence. Ideally developing intercultural competence among employees is an ongoing priority rather than a one-time effort.

4. Best practices demonstrate that mainstream organisations which work closely with experts or specialist organisations greatly improve the accessibility of their services to immigrants.
5. Intercultural competence can be introduced as a (European) quality management standard which is considered when governments determine their support to organisations or in public tenders.
6. Active citizenship highlights immigrants' skills and suggests ways of making the most of them both for the immigrants and for society as a whole.
7. Religion often plays a positive role in the integration process, which can be enhanced by facilitating a dialogue among immigrant faith communities and between them and mainstream society.
8. Governments should provide support for inter-religious dialogue by facilitating the establishment of dialogue platforms and contributing resources where appropriate.
9. Participation in political processes is one of the most important elements of active citizenship. Political participation of immigrants provides opportunities for integration and should be supported in its different forms, including acquisition of nationality, local electoral rights and consultative structures.
10. The representativeness and democratic legitimation of policies is enhanced by extending formal political rights to immigrants. Where formal rights exist, they need to be put into practice with commitment from all sides including political parties.
11. Governments should grant electoral rights to all residents at least at local level and minimise obstacles to the use of these rights, such as fees or bureaucratic requirements. Immigrants can be encouraged to make use of electoral rights through information campaigns and capacity building, relying in particular on the networks offered by immigrant organisations.
12. Consultative bodies at the local and national level have a potential to stimulate political participation by immigrants and to improve integration policies by communicating the views of immigrant representatives to governmental and other stakeholders. Ideally their work is proactive and their members are supported in producing high quality contributions.
13. Flexibility in the composition of consultative bodies will best serve the purpose of consultation, keeping in mind that representativeness can be achieved in different ways. Allowing observers or non-voting members to take part in sessions can increase transparency and trust in consultative structures.
14. The attribution of nationality can be an integration tool. Facilitating naturalisation diminishes the rights gap between citizens and long-term resident immigrants and can open up a fuller range of opportunities for participation.
15. Where tests for naturalisation are used, they can be linked to the particular circumstances of the persons concerned. Preparatory courses should be available to immigrants and should be affordable and good quality.
16. Volunteering is a form of social participation in which immigrants play an important role as active citizens. Facilitating their participation and valuing their contribution promotes their inclusion and mobilises their skills.
17. Immigrant involvement in mainstream volunteer organisations should be promoted. Ideally, recruitment strategies for volunteer members take into account cultural diversity.
18. Governments at all levels can give a good example by applying techniques and tools for becoming open and inclusive to themselves and by making openness and inclusiveness requirements for organisations receiving subsidies or participating in public tenders.

### **OSCE Charter of Paris for a New Europe, 1990, "Human Rights, Democracy and Rule of Law"**

(...) We [the Heads of State or Government of the States participating in the Conference for Security and Co-operation in Europe] affirm that, without discrimination

- every individual has the right to freedom of thought, conscience and religion or belief, freedom of expression,
- freedom of association and peaceful assembly,
- freedom of movement;

no one will be:

- subject to arbitrary arrest or detention,
- subject to torture or other cruel, inhuman or degrading treatment or punishment;

everyone also has the right:

- to know and act upon his rights,
- to participate in free and fair elections,
- to fair and public trial if charged with an offence,
- to own property alone or in association and to exercise individual enterprise,
- to enjoy his economic, social and cultural rights.

(...)

We will ensure that everyone will enjoy recourse to effective remedies, national or international, against any violation of his rights.

**OSCE Ministerial Council in Maastricht, December 2003, Decision No. 4/03, Tolerance and Non-discrimination**, (MC.DEC/4/03)

The Ministerial Council,

(...)

11. Undertakes to combat discrimination against migrant workers. Further undertakes to facilitate the integration of migrant workers into the societies in which they are legally residing. Calls on the ODIHR to reinforce its activities in this respect;

**OSCE Ministerial Council in Hamburg, December 2016** (Decisions: Decision No. 3/16 on OSCE's role in the governance of large movements of migrants and refugees)

The Ministerial Council,

Recognizing that the benefits and opportunities of safe, orderly and regular migration are substantial and often underestimated, whilst noting that irregular migration in large movements often presents complex challenges, and recognizing the substantial economic and social contribution that migrants and refugees can make for inclusive growth and sustainable development,

Recognizing the leading role of the United Nations, Commending efforts made since 2015 by the Serbian and German OSCE Chairmanships to address issues related to the governance of these movements more effectively in the OSCE, Acknowledging the many specific activities linked to migration and refugees already undertaken by OSCE executive structures, within existing mandates, as well as by participating States, based on existing OSCE commitments, relevant United Nations documents and national policies,

Building on in-depth discussions conducted at the OSCE, especially during the hearings of the Informal Working Group Focusing on the Issue of Migration and Refugee Flows in spring 2016 and during a special meeting of the OSCE Permanent Council held on 20 July 2016,

1. Acknowledges the work of the Informal Working Group Focusing on the Issue of Migration and Refugee Flows and the output discussed at the special meeting of the OSCE Permanent Council of 20 July 2016;

2. Encourages the OSCE executive structures, within existing mandates and available resources, to continue their work on the issue of migration, including by reinforcing activities leading to the exchange of best practices and enhancing dialogue and co-operation with Partners for Co-operation, in a manner that complements the activities undertaken by other relevant international organizations and agencies;
3. Encourages participating States also to use the OSCE platform, including appropriate OSCE working bodies, to continue addressing migration-related issues where the OSCE has developed its expertise, and improve dialogue on migration-related matters with regard to developing possible effective measures and common approaches to address them.

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## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

The OSCE/ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it coordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE Commitments, other international obligations and standards for democratic elections and with national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States' in fulfilling their obligations to promote and protect **human rights** and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The OSCE/ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website ([www.osce.org/odihr](http://www.osce.org/odihr)).