



Migration and Democracy: Migrant Participation in Public Affairs

Background paper for 4 September 2009 expert meeting on civic participation of migrants

Thomas Huddleston, Migration Policy Group

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INTRODUCTION

The Organisation for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) has commissioned Thomas Huddleston, Policy Analyst with the Migration Policy Group, to write a background paper on the civic and political participation of migrants in Europe. This paper is one step in the development of a Report on Good Practices in the area of migrant civic participation, which will contain examples from various countries that experience migration management challenges and it will be primarily for the use of decision-makers and migration experts. This background paper provides an overview of existing international and European legal standards, political commitments at European level, national policies in Europe, and finally a literature review of existing comparative European research on policy implementation and immigrant outcomes.

WORKING DEFINITIONS

The IMISCOE¹ state of the art report identifies 3 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)
- **Mobilisation** (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)

These activities range, in the very least, from naturalisation through to formal participation (volunteering, membership in trade unions, political parties, voting, consultation, elected office) and informal participation (petitions, protests, and community organising). Participation, mobilisation and representation are all dynamic process that can be measured:

- In many dimensions (i.e. active in a trade union, but not a political party)
- At the individual, group, and societal level;
- Within a certain context (local, regional, national, European, and international);
- Over time (not one moment or threshold but different stages);
- In many directions (moving towards or away from equal outcomes with nationals).

¹ 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

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1. LEGAL STANDARD-SETTING

A. International law

International human rights law, including the International Covenant on Civil and Political Rights (see Annex) and the UN Migrant Workers' Convention, 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 immigrants the rights to freedom of expression, assembly, and association, and trade union membership. These standards do not address whether or not immigrants 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 out 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 (da Costa 2006, Mandal 2003).

B. European law

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

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 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 immigrants' 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" (ETS No. 144). 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
- 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 (granting right to stand as candidates up to discretion of signatory states)

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: 14/6/2009

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		
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:	5
Total number of ratifications/accessions:	8

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. Because the states that chose to ratify already had policies meeting the Convention's minimum standards, ratification has ironically not led to more political rights for foreign residents (Waldrauch 2005). 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 (ETS No. 93) 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 organise to protect their economic and social interests, but also facilitate their equal participation in the affairs of the business.

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

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 (ETS No. 166) 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 harmonised 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 (Vink & de Groot, 2009).

The Convention on Nationality has been ratified by an increasing number of states, which now stands at 16:

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

Entry into force

Conditions: 3 Ratifications.

Date : 1/3/2000

Status as of: 12/8/2009

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
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

An eventual adoption of the Lisbon Treaty could bring the EU Charter of Fundamental Rights into the body of EU law, which could facilitate EU cooperation 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.

...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 (Groenendijk 2008). 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 specified that the residence requirement should be the same as for nationals. Directive 96/30/EC added the exception to the residence requirement for countries where the proportion of voting-age EU citizens exceeds 20 percent 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 as well as Lisbon Treaty Article 63a(4)'s exclusion of harmonisation 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 organisations. These rights has been extended for future highly-skilled workers with an EU Blue Card (Directive 2009/50/EC), proposed for all migrant workers with an EU single work/residence permit (COM(2006)38), but overlooked for reunited family members (Directive 2003/86/EC). Where these rights are guaranteed in EU law, they must be applied in all EU Member States and candidate countries upon accession. At least Directive 2003/109/EC has been the subject of an EC-funded evaluation study conducted by the Odysseus Network in 2008. When made public, the study's results will indicate whether or not all 27 EU Member States have properly transposed the Directive's provisions on the political and civic rights of long-term residents.

2. 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 recently discussed in the Assembly's Recommendation 1500 (see Annex) as well as its June 2008 Recommendation on *State of democracy in Europe: measures to improve the democratic participation of migrants* (See Annex). This latest recommendation recommended that the Committee of Ministers instruct relevant Committees and invite Commissions to work on different aspects of integration measures that promote equal political participation in society:

- Obstacles to ratification and national implementation of standards in Convention on the Participation of Foreigners in Public Life at Local Level: European Committee on Local and Regional Democracy (CDLR)
- Adaptation of national integration and equality programmes to meet political participation objectives: European Committee on Migration (CDMG)
- Removal of restrictions on migrants' political rights, particularly right to join parties and found political associations: Steering Committee for Human Rights (CDDH)
- National ratification and implementation of standards in European Convention on Nationality: European Committee on Legal Cooperation (CDCJ)
- Inclusion of migrants in monitoring the balanced political participation of women and men: Steering Committee for Equality between Women and Men (CDEG)
- Impediments to granting local and regional voting rights and national recommendations for constitutional reform: European Commission for Democracy through Law (Venice Commission)
- Monitoring and advice on discrimination as obstacle to democratic participation: European Commission against Racism and Intolerance (ECRI)

The Congress of Local and Regional Authorities has specifically promoted the establishment of consultative bodies. Resolution 141 and Recommendation 115 (2002) address local political participation measures, particularly consultative bodies, which the Congress later made the subject of a Handbook (Gsir and Martiniello 2004). Though the Congress has welcomed the adoption of local voting rights for EU citizens, it also recognised 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." 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 (No. 144). 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 good practice code on electoral matters. 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.

B. European Union

a. A commitment to improving EU citizens' political participation

The next political commitments on the rights of EU citizens living in another EU Member State will come with the EU's "Stockholm" work programme for justice and home affairs for 2010-2014. Better implementing EU citizens' electoral and other political participation rights have become 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 Coordination²

For third-country nationals, Lisbon Treaty Article 63a(4) also formalises 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 cooperation were started under the "Hague" programme for justice and home affairs 2004-2009. New priorities have been set at every European conference of the ministers responsible for integration: Groningen (2004), Potsdam (2007), Vichy (2008) and next under the Spanish Presidency (2010). This process has been guided by the Common Basic Principles for Immigrant Integration Policy (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;
- 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.

² The Open Method of Coordination provides a new framework for cooperation 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

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 cooperation on migrant political participation:

- Community immigration policy: COM (2000) 757
- Immigration, integration and employment: COM (2003) 336
- Common Agenda on Integration COM (2005) 389
- First Annual Report on Migration and Integration COM (2004) 508
- Second Annual Report on Migration and Integration: SEC (2006) 892
- Third Annual Report on Migration and Integration: COM (2007) 512
- Strengthening actions and tools to meet integration challenges: SEC (2008) 2626

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 immigrant groups and generations
- Increasing third-country nationals' participation in the democratic process, promoting a balanced gender representation, through awareness raising, information campaigns and capacity-building
- Minimising obstacles to the use of voting rights, e.g. fees or bureaucratic requirements
- Facilitating immigrants' participation in mainstream organisations, 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 to newcomers, and including their representatives in introduction programmes as trainers and role models
- Elaborating national preparatory citizenship and naturalisation 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 organisations to immigrants and the building of organisations representing their interests EU-wide
- Fostering the creation of a platform of migrants' organisations and organisations 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 immigrants a sense of participation in society
- 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" (SEC (2006) 892), "rather limited" (COM (2007) 512), and "still weak," citing the EU's weak showing in MIPEX on citizenship and political participation (SEC (2008) 2626).

The Commission's Communications also attempted to raise political participation on the agenda of the Member States by introducing the idea of naturalisation as a national integration strategy for long-term residents. The Member States had agreed in the seminal 1999 Tampere Presidency Conclusions 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 immigrants' participation in the democratic process is strengthened at national level through the elaboration of national preparatory citizenship and naturalisation programmes. Most recently, the 2007 Potsdam informal meeting of the EU Integration ministers invited European cooperation (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 immigrants and Member States' Constitutional and legal systems as well as exchange views and experiences on naturalisation systems applied by Member States.”

The Commission also drew on Tampere for the idea of “civic citizenship,” which affirms that long-term legally resident non-EU nationals be offered comparable rights and responsibilities as EU nationals. Despite the encouragement of the European Parliament and Justice and Home Affairs Commissioner Vitorino, the concept did not catch on with the Member States and has been abandoned at EU level.

d. EU technical cooperation on integration

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

- Handbook for policymakers and practitioners
- soon to be followed by European modules, as yet undefined
- Website on Integration
- European Integration Forum

All of which have been supported financially by financial cooperation mechanisms: the INTI programme and the Integration Fund.

In terms of the civic and political participation of immigrants, the Handbook on Integration’s rounds of technical seminars and three editions 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 are presented in the Annex. The chapters on dialogue platforms, awareness-raising and empowerment, and the acquisition of nationality will be published in spring 2010.

“Modules” will follow up the Handbook exercise and build on its conclusions and examples of best practice. Modules on topical integration issues are intended as to assist policy-makers and practitioners to practically implement the CBPs. The outputs could involve standards, benchmarks, peer reviews and other tools at their disposal. One proposed topic for modules, immigrants’ participation in different areas of local life, could be designed to include civic and political participation.

The European Website on Integration, launched in April 2009, can be searched by users for funding, best practices, partners, events and European cooperation in the many areas of societal integration, including civic and political participation. This information is searchable at www.integration.eu under the category “Active Citizenship” and its various sub-categories:

Civic citizenship • Naturalisation • Political participation • Volunteering and third-sector • Consultation • mediation and dialogue platforms • Civic education

The European Integration Forum, also launched in April 2009, could become a means to promote greater opportunities for immigrant political participation at national and EU level. The European Commission affirmed in its Common Agenda on Integration that the EU institutions could only take a comprehensive approach to integration policy if they had a consultation mechanism with civil society, especially immigrant organisations. This Forum can be seen as a new approach to the model first tried with the 1990s European Union Migrant's Forum. This time immigrant 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 cooperation mechanisms on integration. Participants at the launch of the Forum suggested that its working groups could put following topics on the EU agenda: political participation, capacity building and access to EU funding for immigrant organisations, and the elaboration of guidelines for the creation of consultative bodies at national level. This last point indicates how setting up a consultative body at EU level also serves as incentive for Member States to create their own consultative bodies, since representatives of these bodies are supposed to participate at the EU-level forum.

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. One of the six objectives of the European Integration Fund is 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 lists the various ways that Member States and the European Commission can 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 immigrant and mainstream organisations.

Whether the Member States have chosen to use the European Integration Fund to improve immigrant civic and political participation can be evaluated after the publication of the first list of national EIF actions for 2007 and 2008. European-level actions have been funded under the Community Actions of the European Integration Fund in 2007 and 2008, as well as under its predecessor, INTI from 2003-2006:

- 2005/INTI/103: CIEN (Deputació de Barcelona) –promote citizenship in diverse neighbourhoods
- 2005/INTI/109: MIPEX (British Council) – benchmark nationality & political participation policies
- 2006/INTI/17: UNITE (European Network of Cities and Regions of Social Economy) –develop new instruments for intercultural dialogue and alternative methods of participation at local level
- 2006/INTI/53: Be naturalised or become a citizen? (CJD Eutin) –survey immigrants on which naturalisation procedures promote their integration and sense of belonging in host country
- EUCITAC (European University Institute) –identify practices, trends, and databases on citizenship

f. European Parliament

The European Parliament's powers on EU immigration legislation will 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 (Geysler 2007).

C. The Nordic Union: example of regional cooperation in Europe

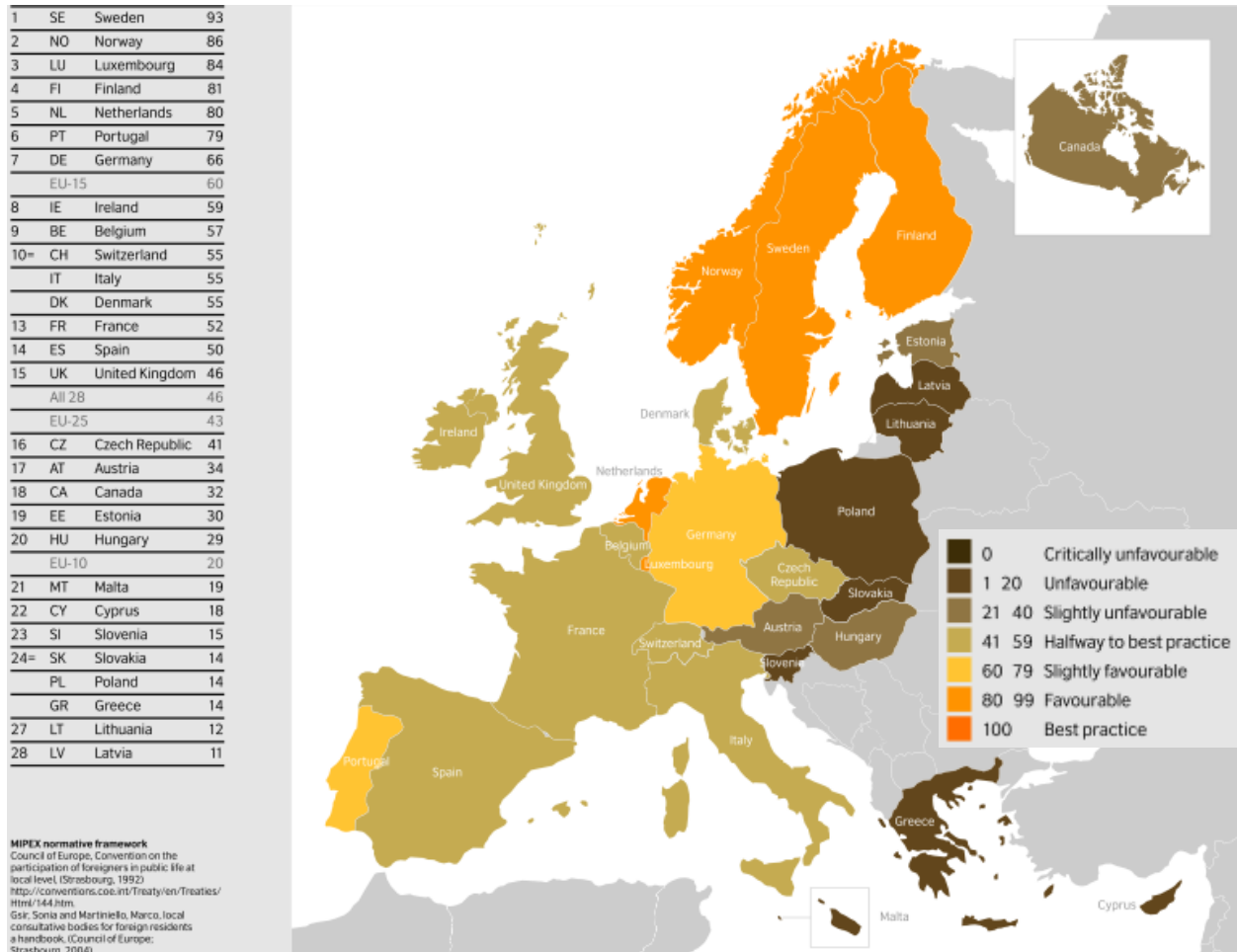
Other instances of European cooperation on civic and political participation have emerged outside the Council of Europe and EU framework. For instance, the Nordic Union which has brought together Denmark, Finland, Iceland, Norway, and Sweden since 1966 and its 1977 recommendation is an early example for other international bodies of a regional commitment on electoral rights that was informal (no formal treaty), effective (local active and passive voting rights for Nordic citizens throughout the region), and expansive (later extended to all non-nationals) (Groenendijk 2008).

D. The Organisation for Security and Cooperation in Europe

In the OSCE Charter of Paris for a New Europe from 1990 (see Annex) 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. 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 states the participating States committed themselves, among others, that they "will continue to promote the integration of migrant workers in the societies in which they are lawfully residing. They recognise 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 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).

3. POLICY FRAMEWORKS IN EUROPEAN COUNTRIES

Political participation and naturalisation policies in 27 EU Member States were mapped alongside four other areas of integration in the 2007 Migrant Integration Policy Index (MIPEX). The EU Member States on average scored better for granting non-EU immigrants 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.



Political participation emerged as the area of integration where policies diverged the most between EU Member States, especially between Western and Eastern Europe. On the one end of the scale, a third-country 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 third-country 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. Policies in Western Europe (especially North and Northwest Europe) were on average slightly favourable for promoting integration, while those in Eastern Europe and the Eastern Mediterranean were wholly unfavourable.

It is interesting to note that there is no statistically significant correlation in the EU-25 between the MIPEX scores on access to nationality and political participation. There is no trade-off between granting political rights for immigrants and facilitating their naturalisation, as the issue is often framed in political debates (Jacobs et al. 2009). 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 immigrants, 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 naturalisation 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 naturalisation were in Central Europe, the Baltics, and the Eastern Mediterranean.

A. Civic and political participation of third-country nationals

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

The law in most European countries states that immigrants 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. A few Eastern 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.
- In Latvia, the Law on Public Organisations 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.

Immigrants' 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).
- France is currently the only MIPEX country to restrict civic participation in work negotiation bodies. Migrant workers were elected to Chambers of Commerce or Trade and 'Prud'homme' (mediation) councils, until this right was restricted to only EU/EEA citizens in 2004. Little explanation was given in the law.

b. Electoral rights

Electoral rights at the different areas of governance are identified by MIPEX as an area of great divergence between the EU Member States. 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 ten, 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 regional or national level. Voting rights at regional level are granted in only five countries (Denmark, Hungary, Slovakia, Sweden, and UK) and at national level in only two (Portugal and 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 26 other Member States. Non-EU citizens have the right to vote in 15 EU Member States and the right to stand in 10. North and Northwestern European countries were the first to grant local voting rights in late 1970s and early 1980s. There is a renewed interest in recent years, first with the Czech Republic in 2001, followed by Estonia, Lithuania and Slovenia in 2002, Luxembourg and Slovakia in 2003 and Belgium in 2004. None of these countries have ratified Council of Europe Convention No. 144, meaning that this trend is not the direct result of European legal standards.

Granting electoral rights is a linear and often incremental process. Public debate and proposals has 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. In practice, letting immigrants participate in elections before their naturalisation 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 (Groenendijk 2008).

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 (Geyser 2007). In these countries restrictions are made on the basis of (Waldrauch 2005):

- Reciprocity (bilateral agreements with countries of origin, i.e. Czech Republic, Malta, Spain)
- Residence period (upon arrival in Ireland or UK up to 10 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 on immigrants’ political rights and opportunities could only be identified by the national MIPEX correspondents in Finland, Portugal, Sweden, and the UK. Campaigns have been conducted sporadically in six EU Member States (Belgium, Germany, Ireland, Luxembourg, the Netherlands, and Slovenia), while 15 others had yet to organise any such policy or campaign.

Dedicated public funding for immigrant associations’ political activities are slightly favourable in Western Europe, but generally unavailable in most Eastern and Mediterranean countries as well as Austria and Denmark. For example, the Danish government in January 2002 cut subsidies for newcomers to start their own associations, many of which since lost most of their financial support (Goli and Rezaei 2005). The criteria for public support for immigrant associations were similar at the different levels of governance in 20 of the 25 EU Member States surveyed in MIPEX. Comparing the different levels in the other five, immigrant associations that want to be politically active would find better public support in:

- Belgium: in Flanders and Brussels as opposed to Wallonia;
- Austria: at the regional and local level as opposed to the federal level;
- Ireland, Latvia, and Slovenia: at the national level as opposed to the local level.

d. Consultative bodies of foreign residents

The current state of consultative bodies in the EU is overall, according to MIPEX, slightly unfavourable for promoting integration. Immigrant consultative bodies have not been established in the UK and most Eastern European and Mediterranean countries. Cities with significant immigrant populations in 15 EU Member States, mostly in Western and Southern Europe, have incorporated immigrant consultative bodies into their local integration governance structures. 10 Member States also bring together immigrant associations and representatives at regional and national level. The structures established in these countries are on average halfway to meeting the quality standards set in the Council of Europe Convention No. 144. MIPEX evaluated these bodies in terms of their form and composition:

Good governance standards in consultative bodies in Europe (MIPEX 2007)

		<i>Structural</i>	
	BE national + Flanders	AT Graz + Linz	
	CZ national	DK all levels	
	FI national + regional	DE regional + local	
	FR Paris	LU all levels	
	ES all levels	NL national + regional	
		PT national + regional	
<i>State intervention</i>	CZ local	AT Vienna	<i>Freely elected</i>
	EE all levels	DE national	
	FR local	IE Dublin + Cork	
	NL local	IT all levels	
		PT local	
		SE all levels	
		<i>Ad hoc</i>	

Half are structural bodies that must be regularly consulted on all matters related to integration and immigration. Where this obligation is not imposed on government, bodies are convened on only an *ad hoc* basis. Half are made up of representatives directly elected either by immigrant voters or associations. In the other half, governments intervene in the selection process, often to nominate or appoint the immigrant representatives with whom they want to consult. The countries where consultative bodies tend to be at least slightly favourable integration mechanisms are Germany, Luxembourg, the Netherlands, and the Nordic countries:

- The Council for Ethnic Minorities in Denmark, the national consultative body, is composed of representatives of the 60-or-so locally elected integration councils (*Integrationsraad*).
- Germany has over 400 *Ausländerbeiräte* (local foreigners' councils). In North-Rhine Westphalia, foreigners' councils are obligatory for communities with more than 5,000 foreign residents.
- Since 1997, the Dutch National Dialogue Structure for Ethnic Minority Groups has provided the Dutch government with a firm legal and financial basis for consultation with ethnic minorities that is complimentary to existing democratic principles. For instance, any disputes between dialogue participants and government are settled by the Dutch Parliament. The criteria for migrant associations' funding and participation in the dialogue are clearly set down by the law.

e. Linking the different areas of political participation policy

Secondary analysis of the MIPEX demonstrates that what a country does in one area of immigrant political participation is often related to what it does in another (Jacobs et al. 2009). The few countries that restrict the rights to form an association or join a political party are less likely to establish consultative bodies of immigrant associations and representatives. There is a very strong correlation between consultative bodies and financial support for immigrant associations: whether or not robust consultative bodies are established in a country is linked to whether or not immigrant 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 immigrant associations are more likely to consult with them. Another could be that the countries which organise consultations are more likely to grant funding to the immigrant associations that participate. It is noteworthy that there is no negative correlation between consultative bodies and electoral rights, even though these bodies are sometimes criticised as a stand-in for full voting rights. Some countries with robust consultative bodies for third-country nationals also grant them the right to vote at local and regional level, while others do not.

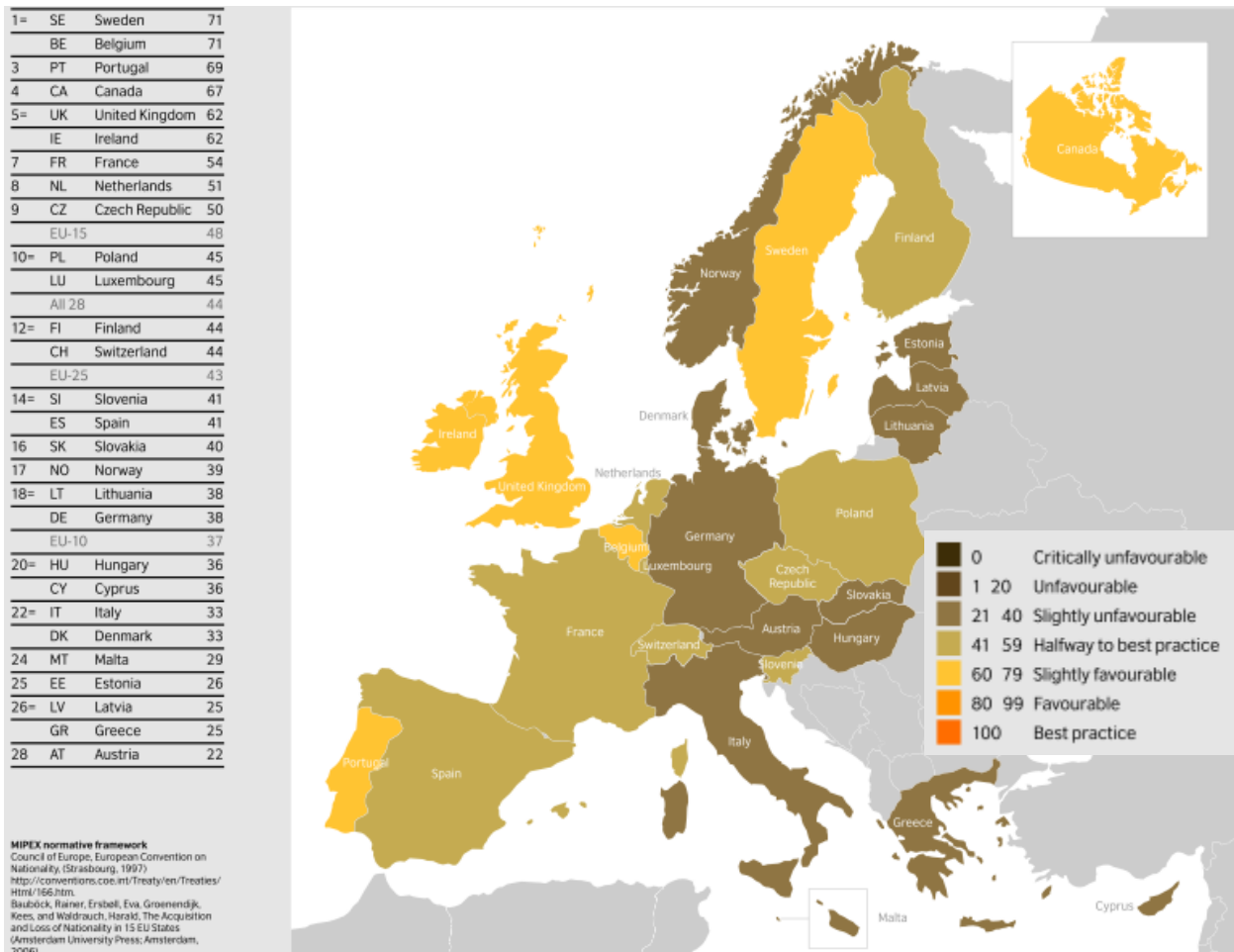
B. Access to nationality for immigrants and their descendants

EU-wide mappings of national policies on the acquisition of nationality and its links to migration can be found in Acquisition and Loss of nationality: policies and trends in 15 European Countries, prepared by the NATAC project, as well as Citizenship policies in the new Europe, prepared by CPNEU project. The European observatory on citizenship (EUCITAC) will follow up with information on citizenship norms, laws, policy and analysis, and up-to-date official statistics on the acquisition and loss of nationality in the 27 EU Member States and neighbouring countries.

Access to nationality, the second area of improvement identified in the MIPEX second edition, measures policies according to four dimensions:

- 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 naturalisation requirements?
- Security of status: How easily can naturalised migrant lose their nationality?
- Dual nationality: Can immigrants maintain the citizenship of their country of origin?

For access to nationality, eligibility provisions in the EU-25 are found to be slightly unfavourable for promoting integration, while the other three dimensions score halfway on the MIPEX rubric (Huddleston 2008). The eligibility provisions had the lowest average and lowest high score of all 24 dimensions in MIPEX. Few countries facilitate the residence requirement for first-generation migrants or apply *ius soli* for the second- and third-generation. Countering these trends are new countries of immigration like Portugal that have considered more inclusive criteria in the context of globalising migration flows. Generally more favourable in the EU is the facilitation for spouses of nationals through residence periods that tend not to exceed five years. Most formal conditions for acquisition come in the form of stringent criminal record requirements, language assessments and long and costly procedures. Income requirements are, on the whole, limited to a minimum level around the acknowledged poverty thresholds. The majority do not require applicants to renounce their previous nationality, while most others tolerate dual nationality under certain exceptions. Only partially secure in their status, applicants that fulfill the aforementioned conditions may have their application refused or nationality withdrawn in most countries on a number of grounds and without time limits. Still, these procedures tend to include various legal guarantees and avenues for redress.



The European countries that score above the 50% mark for promoting integration through their citizenship policies are Sweden, former colonial powers like Belgium, France, the Netherlands and Portugal, and parts of the Anglophone world like Ireland and the UK. These 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 no country's policies on access to nationality or for that matter long-term residence scored high enough to be considered 'favourable' for promoting integration. On the other end of the MIPEX scale, the eleven countries whose policies receive a 'slightly unfavourable' score include the Eastern Mediterranean countries, the Baltic States, as well as Austria, Denmark, Germany, Hungary, and Italy. 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.

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 administered abroad as a condition for entry. The rationale is that compulsory assessments

or tests could be incentives to learn the country's language and other facts, whereas 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 as to their efficiency and ultimate effectiveness before being confirmed as integration incentives.

Voluntary citizenship ceremonies, still rare across the EU, are also being introduced in some Austrian province, Denmark, Estonia, France, the Netherlands 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 the Islamic headscarf).

4. THE STATE OF COMPARATIVE RESEARCH ON IMPLEMENTATION AND OUTCOMES

A. Funding and practices: the missing middle

The IMISCOE state of the art report considers that the body of knowledge on the political integration processes of immigrants is reasonably good and contains only a few gaps.

Comprehensive mappings are needed of the administrative and financial inputs that governments and other actors are dedicating to deliver on their policies on paper and their commitments in international fora. What is currently available are voluntary information exchanges like the EU integration website and best practice guides like the European Commission Handbook on Integration and the Council of Europe Handbook on Consultative bodies. More ambitious research projects could assess the state of implementation and practice. Monitoring could be undertaken of how much and to whom public funding is allocated to promote immigrant participation in public affairs at European level and within countries at local, regional, and national level. A comprehensive inventory could be made of the work of key actors on immigrant civic and political participation:

- Trade unions
- Voluntary sector
- Religious organisations
- Immigrant and Diaspora associations
- Consultative bodies
- Political parties
- Bodies responsible for electoral participation

This inventory could include the type of activity (i.e. information, dialogue platforms, get-out-the-vote campaigns, outreach) and these activities' outputs, both quantitative (i.e. number of persons reached, meeting held, voters mobilised, new members or candidates attracted) and qualitative (satisfaction of target population, dialogue participants, new voters, level of activity and leadership among new members, qualification of candidates).

A review of any evaluations or studies of these practices could then determine whether their outputs have effectively improved immigrants' participation outcomes. For instance, recent programmes funded by Northwest European countries that turn "civic integration" into tests, contracts, and points system have been criticised as ineffective (Guiraudon 2008, Münz 2007). These preliminary assessments consider that these obligatory conditions are unclear and narrow in their view of integration, costly (sometimes for the state, but mostly for immigrants), exclusionary (of certain immigrants and the host society), and ineffective for addressing immigrants and local communities' needs for civic and political participation.

B. Immigrants' outcomes in European politics and civil society

The intended ends of integration are often framed as an equality of outcomes, whereby immigrants and their descendents are able to participate in society at the same levels as the native population. The level of civic and political participation across Europe remains low for nationals and is likely lower for non-nationals. "The political quiescence of immigrants," the traditional theory in postwar Europe, considered that these lower levels of civic and political participation were a sign that economic migrants and their families tended to be apolitical. Immigrants were thought to be passive because they preferred to participate in less conventional or work-related ways like trade unions, did not mobilise to demand conventional political rights, and came from countries of origin with low levels of democratisation and citizens' participation.

The IMISCOE state of the art report takes a more balanced view that foreign-born are no less and no more capable of political integration than the native-born. The fact that immigrants are generously less civically active than nationals is not an indicator of some apathetic attitude towards politics. But nor should it be exaggerated that immigrants have some hidden potential to become "the perfect citizen" (Carrera 2009) and an emerging transnational force.

Instead, evidence from both quantitative and qualitative comparative surveys suggests that the foreign-born are, when compared to the native-born, slightly less but similarly active in the various forms of conventional participation, while being slightly more and differently active in less visible and conventional ways. The civic participation outcomes of natives and first-generation immigrants in different European countries has been analysed on the basis of "indicators" of civic participation taken from the questions in the European Social Survey (ESS) (Aleksynska 2008).³ Immigrants outperform non-immigrants only on the indicator of participation in demonstrations, and even then, only slightly. The area in which immigrants and nationals take part the most is symbolic actions (petitions, boycotting, and demonstrations) and the least is joining political parties. However, a fuller picture of the ESS data suggests that the differences between immigrants and natives almost disappear once observers take into account less conventional and visible forms of participation like informal help to humanitarian aid, human rights, and immigrant rights movements like the sans papiers movements. Indeed, these organisations see slightly higher levels of participation by immigrants than by nationals. Furthermore, the literature on transnationalism⁴ has also concluded that transnational links do not harm political integration. Just as citizens can be simultaneously active at the different levels of local, regional, and national politics, so too can civically active immigrants meaningfully participate in the local, regional, and national level in different countries' political systems.

³ As a word of warning, ESS sample of immigrants may not be fully representative and, as such, may overestimate the level of immigrant civic participation. The fact that the ESS use population registers to select people for interviews in a European language may have an under-sampling of newcomers and a selected bias towards the linguistically-integrated and naturalised.

⁴ Transnationalism is about the greater links between people in different countries and the loosening of boundaries between countries and cultures.

Overall, the degree of political integration in a diverse society and the effectiveness of participation policies are difficult to assess (Jacobs et al. 2009). No quantitative data is available on the composition of associations, the public sector, and representatives disaggregated by nationality and country of birth of respondents, their parents, and grandparents. It will remain difficult to fully capture the civic participation outcomes of immigrants so long as the European Social Survey does not reach out to include nationally representative samples of non-EU nationals.

The *Localmultidem* project will provide results for selected European cities regarding immigrants' levels of political integration in terms of political attitudes and orientations (like trust, knowledge, belonging) and civic and political participation (both conventional and non-conventional).

www.um.es/localmultidem

Another project, POLITIS, used qualitative interviews to better understand the life trajectories of 176 civically active immigrants and the facilitators and obstacles to participation that are common across Europe. Its coded database points to general trends and patterns that can later be tested in representative quantitative research.

www.politis-europe.uni-oldenburg.de

a. The voluntary sector

The ESS analysis suggests that immigrants may volunteer their help to others as much as natives do, though not always through work with a conventional organisation. INVOLVE, an INTI-project in 6 countries (AT, FR, DE, HU, NL, UK) focused on how the ways immigrant volunteer promote integration. Volunteering plays a role as an indicator of integration – and one which contributes to several other indicators as it enables migrants to acquire basic knowledge of the host society, to participate in society through non-formal and informal education and to improve their employability on the labour market. Volunteering enables the host society to better deal with increasing diversity and to accommodate change, as well as being a means by which both immigrants and non-immigrants meet and to take civic action on community issues that matter to both of them. Networking between migrant and mainstream organisations was a key component of success. And government at different levels can help create an enabling environment both for volunteering in general and for migrants to get involved in volunteering. The best initiatives start bottom-up – but need a framework in which to emerge.

Two trajectories that immigrants take to become active in civil society were identified in the POLITIS interviews. One path is taken by “civic entrepreneurship.” At some point in their settlement process, immigrants undertake informal activities (family, cultural, social, professional, and so on) that make them into a “network node” (i.e. person with contacts to own ethnic or multi-ethnic groups). In a next step, they may found their own organisation and make their own positions of authority, in order to get better visibility, recognition, or access to funds.

Civic entrepreneurs:

Informal activities → Self-organisation → founding an organisation → position of authority

The other path is taken by “civic outreach” based on a successful first contact between immigrants and organisations. Outreach is the important channel for people in general to join an organisation. Studies suggest that those born and educated in a country are more able to enter public life on their own, whereas those born abroad usually get mobilised by those who are already politically active (Hochschild and Mollenkopf 2009). While nationals are often recruited through their private, family or professional ties, POLITIS’ literature review found that immigrant volunteers are more likely to contact an organisation either at a public event, or as the client of its services. The organisation might take the lead by appointing a specific outreach person, who POLITIS refers to as a “gate-opener” or “mobilisers.” Those who are also immigrant members of the organisation serve as “role models” for the organisation’s target group. The presence or absence of these gate-openers is a particularly important factor that affects whether, when, and how immigrants get involved in public life.

Gate-openers either come into contact with “members-in-waiting” or “active searchers.” A gate-opener goes to public events to recruit immigrants who indicate a general interest in its general activities. These persons could be called “members-in-waiting.” Equally, an immigrant might take lead as an “active searcher.” As a participant at a public event or as a client of the organisation, they indicate their specific interest in the organisation and, in a next step, are welcomed by a gate-opener. Some unique characteristics that might distinguish “active searchers” are past experience in the same field in their country of origin, or no right to work in certain countries of residence (i.e. asylum-seekers and categories family reunion migrants). One conclusion drawn by POLITIS is that organisations may lack “gate-openers,” knowledge of where to find “members-in-waiting,” and the ability to identify “active searchers.”

Whether these two ways of making the first contact lead to civic participation depends on the organisations’ capacity and willingness to find an “adequate first task” for new immigrant members, orient them within the organisation, and build their capacities through “mentoring and coaching.”

Civic outreach:

First contact (Gate-opener/Role-model → Members-in-waiting, or Active-searcher → Gate-opener)
→ First task → mentoring and coaching → position of authority

Immigrants have better opportunities to volunteer when organisations adopt not only outreach strategies for immigrants, but also a general policy on the inclusion, retention, and advancement of new members. POLITIS notes that immigrant organisations have a relative advantage with greater access to the target population and fewer internal participation barriers, especially language.

Both the civic entrepreneurship and civic outreach paths demonstrate that immigrants' opportunities for civic participation are shaped by the behaviours of host society organisations. Civic entrepreneurship is dependent on the conditions in the voluntary sector—both in general (bureaucratic requirements, legal procedures, fees, public technical and financial support) and for non-EU immigrants (support for immigrant associations and policies on integration and equal opportunities). POLITIS notes that the founding and operation of an immigrant association often involves cooperation with native residents. Civic outreach is dependent on the policies of organisations and the actions of its individual members (outreach to members-in-waiting, receptiveness to active searchers, etc).

The fact that some civic and political groups have a greater need for immigrant members than others helps determine both their interest and effectiveness in outreach (Hochschild and Mollenkopf 2009). Immigrant associations can only sustain their membership and leadership by organising people in similar situations around common interests, such as home-country culture and politics, remittances, and community needs. Some immigrants' rights NGOs may also find that they can better advance these goals by having immigrants as their staff, if not their directors. Their activities bring them closer to the immigrant population by encouraging them to naturalise, vote, organise, and demonstrate or petition on issues of immigrants' rights. Depending on the national legal system, these NGOs cannot bring forward a discrimination case if they first do not seek out potential immigrant victims and convince them to become litigants. Most religious groups are inherently interested in reaching out to new communities, either to provide spaces of worship to the faithful, convert new members, or deliver services to those most in need. Whether mainstream civil society—from a trade union to a school, a civic or neighbourhood organisation—recruits immigrants is influenced by the immediate context. These variables are both objective (inequalities and competition for resources) and subjective (attitudes and levels of trust and understanding between groups). Political parties decide to prioritise immigrant outreach based on a political calculation of this context. They weigh the opportunity to mobilise a new constituency against the potential cost to their current position and electoral power. Depending on how much a country's integration policy is politicised, parties in government may also make this calculation when deciding whether or not the state has a role to support migrant civic inclusion.

b. Trade unions

Trade unions are found in surveys to be the mainstream organisation where immigrants are most likely to participate. High and near-party levels of participation reflect the importance accorded to trade unions in the postwar academic literature on integration. The fact that all members, regardless of citizenship or legal status (Danese 2001), are granted intermediate political rights and forms of representation made unions the historical cradle of immigrants' political participation (Martiniello 2005). That said, the ESS analysis suggests that immigrant members are slightly less likely to be involved in civic activities outside the union like political parties or demonstrations. Trade unions in some countries do not attract high levels of immigrant participation due to the costs of membership, a lack of trust, (Spencer and Cooper 2006) and a low level of outreach to immigrant women, especially in the informal and domestic sectors (Kofman et al. 2000).

c. Immigrant associations as means of integration

The multicultural hypothesis on migrant civic participation has recently gained ground through fieldwork on “ethnic social capital.” This research, inspired by Robert Putnam’s work in the US, started in Amsterdam and other Dutch cities by sociologists Fennema and Tillie (1999 and 2001). They found that two aspects of social capital—the level of membership in and networking among immigrant associations—relate to an immigrant group’s wider level of trust and participation in public life. The more immigrants become members of group associations and the more those associations link together in a network, the more trust is created among immigrants and the more opportunities to participate in the wider political life in their country of residence. Conversely, immigrant groups with low levels of membership in group associations that are poorly networked together tend to have lower political trust and participation rates.

Comparative European research is underway to test these questions raised by Fennema and Tillie’s findings. A first tentative step was made in a special issue of the *Journal of Ethnic and Migration Studies* (JEMS, 2004, vol. 20, no. 3). How significant ethnic social capital is for political participation outcomes depended on the city and country. Nevertheless their preliminary conclusion was that membership in ethnic associations at best improves political participation and, at least, does no harm. Membership in ethnic associations was found to foster membership in cross-ethnic organisations and trade unions. Immigrants who are members of one tend also to be members of the other. Immigrants’ political participation rates are strongly influenced by their level of social capital, which is strengthened through membership in both ethnic and mainstream associations. The research results of the *Localmultidem* project may reinforce this argument for greater public investment in immigrant self-organisations if they are playing a key role to promote immigrant participation in many areas of public life, and, in that way, to enhance the representativeness of mainstream associations and politics in a diverse society.

d. Consultative bodies

There has been no comparative mapping of immigrant consultative bodies in Europe. What exists are indicators (MIPEX) and best practice overviews based on non-comparative questionnaires (Gsir and Martiniello 2004) or expert meetings and small field studies (Council of Europe Community relations 1999). Consultative bodies have limited success when immigrants are not satisfied with its role in decision-making, membership criteria, and operating rules. Ethnographic research in Barcelona and Bologna (Però 2005) suggests that their bodies have the most benefits for governments (who gain legitimacy and a politically correct image), some for immigrants’ rights NGOs (who are contracted for public service delivery) and little for immigrants (who are politically neutralised). As noted earlier, consultative bodies have little impact on actual policies where policymakers are not obliged to meet with them regularly and take into account their recommendations. One three-country study argued that consultative bodies divert immigrant associations out of mainstream politics and into more marginalised and state-dominated structures (Bousetta 2001). To avoid that consultative bodies become “illusions of

participation” (Cyrus et al 2005), the Council of Europe’s Handbook (Gsir and Martiniello 2004) puts forward these recommendations:

- *Composition*: open-ended and differentiated membership, equal representation from migrants and local communities, wide representativeness of migrant members
- *Selection*: Election by migrant residents or associations, rather than nomination by authorities
- *Objectives*: clearly defined, prioritised, funded, and regularly assessed
- *Activities*: consultation and promotion of civic and political participation
- *Functioning*: right to be informed and consulted, initiate consultation, receive a response, and receive necessary financial and human resources

e. Realising electoral rights

More quantitative comparative research is required on the electoral participation and orientation of immigrants and ethnic minorities. National-level studies have been regularly conducted in the traditional countries of immigration and the UK, and recently in North and Northwest Europe.

Groenedijk 2008 reviews available national data on the use of non-EU national voting rights and their link with integration. Passive electoral rights have been used by a large number of non-nationals at local level, though their voter registration and participation rates are generally lower than for nationals. The non-national voter participation rate rises and falls over time, depending on the size of the population (immigration flows and naturalisation rates) and the salience of campaign issues for these communities. Rates also differ between immigrant groups and between local political contexts. Granting voting rights has had no negative effect on naturalisation rates and, indeed, may help immigrants see the benefits of participating in decision-making. Immigrants who use their local voting rights may thus have a greater awareness of the full voting rights that come with citizenship. Granting or restricting local voting rights may also impact on how immigrants participate politically in other ways, which was a finding of a recent comparison between Swiss cantons Neuchâtel and Zürich (Giugni 2007).

Research in the countries that extend electoral rights point to various next-step challenges to attaining equal participation rates for migrants as for nationals: some critical factors are initial reception conditions, political party outreach, and the density of networks, levels of political trust, and the level of establishment among different migrant communities. Furthermore, authorities may need to evaluate whether information and guidance campaigns are reaching their target communities.

f. Party membership and orientation

The assumption of how immigrants become active in political parties is a one-way transition. Immigrants get their start in immigrant organisations as a stepping stone into established political parties. Their work on the specific needs of immigrant communities introduces them to the mainstream political issues that will become the main focus of their work for the party's base. The one-way direction was partly confirmed by the handful of POLITIS interviewees who were party members. Activism in the immigrant community preceded party membership for two-thirds (known as the immigrant-plus-mainstream pattern). Yet a significant one-third started in political parties before developing networks in the immigrant community (mainstream-plus-immigrant pattern). Whether party members took the easier first route or harder second route depended on their level of education, language proficiency, and their socio-professional status. The POLITIS research suggests that this progression is not a switch from one to the other, but rather a combination of the two. Immigrant party members were also active within immigrant communities, worked within the party on both mainstream and immigrant issues, and serve a diverse party base of both immigrants and non-immigrants. Where political parties become aware of the role that the immigrant electorate can play in local elections, some become interested in:

- Enlarging their base to include these groups
- Adapting their political agendas and raising new issues to reflect their needs
- Moderating the influence of anti-immigration groups

Immigrant voters tend to vote and join traditional parties—only rarely do they found immigrant or ethnic minority parties. Some studies consider that they are more likely to join political parties with diverse party leadership and vote for immigrant candidates within traditional parties' lists. The IMISCOE state of the art report states that no general theory can be made linking immigrant background to electoral behaviour. Rather, it recommends that further comparative research see so-called “ethnic voting” as context-specific by investigating its incidence in different political systems (i.e. voter registration requirements, voting systems, rules for determining voting districts) and societal factors (i.e. residential concentration, level of ethnic social capital, and experiences of discrimination). Even in the most favourable cases (a homogenous immigrant population voting in a system for individual immigrant candidates and small parties), these local parties have been found to be rarely successful in elections.

Immigrants are likely to be changed by participating in political parties as much as they change the political parties by participating in them (Hochschild and Mollenkopf 2009). Immigrants may change their partisan loyalties to join the most inclusive party or movement, whose programme may later change their views on other subjects (Goren 2005). They begin to align themselves according to the country's political system, identities, and categories of ethnic minorities. These party members, whose primary aim is to win votes and public recognition, often adapt the way they talk about their own identity to the public and their community in order to conform to the established national conventions on the role of ethnicity, religion, or nationality in politics. They may cross boundaries without changing the established system, blur boundaries by bringing together previously separate groups within the system, or entirely shifting boundaries to the point that immigrants become established part of the system (Hochschild and Mollenkopf 2009).

g. Demographic and substantive representation

The demographic representation of immigrants and their descendents is an increasingly important area to track in countries of immigration. This quantitative data-gathering is especially needed for countries without readily available statistics on politicians' background, measured in terms of their and their parent's country of birth and self-identification. In countries that grant non-EU voting rights, available data indicates that more non-EU national candidates have been nominated and more are successful at being elected (Groenendijk 2008). This trend is partly explained by the outreach from a greater number of political parties, which come from a wider range of the political spectrum. In general, immigrants' first elected office is typically in local government (Hochschild and Mollenkopf 2009). The local level may be easier for newcomer communities to influence and for their politicians to orient themselves in the country's political system. At national level, those successfully elected to legislatures in four European immigration countries (FR, DE, SE, UK) tended to come from left-of-centre parties and in multi-person constituencies with a high immigrant population (Wüst and Saalfeld 2009).

Substantive representation of immigrants' issues (i.e. pro- or anti-immigration and diversity) has been tracked by studies of governments and political parties, particularly on the extreme right. These studies' sources are party programmes, bills and amendments, as well as parliamentary debates and votes.

Demographic representation in elections may or may not lead to substantive representation in parliament. Wüst and Saalfeld 2009's four-country study observed that migration-specific issues were the core work for most national legislators with an immigrant background, except for those in leadership positions. Bird, Saalfeld and Wüst's forthcoming book, The Political Representation of Immigrants and Minorities, will provide further data and quantitative analysis on immigrant voter participation rates and demographic representation on electoral lists and in national parliaments in several European countries, Canada and the United States. This and other comparative research on substantive and demographic representation can demonstrate how politicians with an immigrant background influence their fellow politicians, the decision-making process, its outcomes, and its impact on immigrant communities.

h. Engagement at EU level

The POLITIS research also brought forward qualitative results on what civically active immigrants think about engagement at EU level. The two features that POLITIS interviewees appreciated most about the EU in comparison to their continents of origin were its transnational democracy and its appreciation of cultural diversity. The researchers noted that, when interviewees made positive reference to the motto "unity in diversity," it was often accompanied with a hope that it will include all immigrants and a fear that it may not include those of certain ethnic, racial, or religious backgrounds. Interviewees tended to see the EU institutions as forums and sources of funding, especially where national governments express little interest in immigration and integration. They spoke of the importance of EC legislation and the obstacles to its national, regional, or local implementation.

i. Naturalisation

The IMISCOE state of the art report sees a connection between studies on immigrant political participation and a renewed interest in citizenship in all EU Member States. The integration effect of naturalisation has become an important topic of research in traditional countries of immigration, though not yet in Europe. Naturalisation does not make immigrants civically active. Rather, immigrants who are already civically active will participate more after naturalisation, especially in the areas of life reserved for nationals. OECD international research observes a “citizenship premium,” (OECD 2008) at least in economic terms, in numerous EU countries. New citizens, who benefit from full access to the public sector and private employers’ preference to hire nationals, experience in the years immediately after naturalisation greater economic and occupational mobility. Smaller studies suggest that new citizens in this period are more likely to join trade unions and become involved in political life in their country of residence and origin. The POLITIS interviewees noted that naturalisation gave an added legitimacy to their civic activism on social or humanitarian issues. They felt encouraged as new nationals to take on responsibilities as representatives or mediators between nationals and non-nationals.

Over the past quarter century, the rising settled immigration population in Europe has produced more eligible candidates for the acquisition of nationality. Acquisition rates have tended to rise, except in countries that make the process deliberately more difficult. Despite this rising trend, the rates remain surprisingly low across the EU. In the EU-27 in 2006, only 25 citizenships were granted per 1,000 foreign residents. Only a small percentage of the non-nationals eligible to acquire nationality actually apply. These low levels are striking in comparison to the traditional countries of immigration like Australia and Canada that emphasise the importance of naturalisation. The factors that influence the naturalisation rate are the length of residence, income levels, type of employment, education level, home ownership, family or social ties to the country. Others include the geographic proximity between country of residence and origin, future migration or return plans, and access to information on procedures (DeSipio 2006, Bauböck 2005).

To assess the impact of different naturalisation procedures on migrants’ perceptions of citizenship, the views of 119 migrant representatives in five countries (BE, DE, IT, SE and PT) were solicited in a qualitative INTI-funded study entitled, *“Be naturalised – Or become a citizen?”* They agreed that naturalisation makes full political participation possible for immigrants, whose activities and bridging functions should be better recognised and encouraged by the host society. The introduction of numerous requirements or a points-based system was roundly seen as confusing, bureaucratic, and impractical. Minimum knowledge of a society’s language, tested through a flexible and objective procedure, was spoken of as a measure that both nationals and most naturalising immigrants could pass. Interviewees also found it uncontroversial to deny full residence security to those proven to be a legislative threat to public order and national security, so long as former convicts were not excluded. Naturalisation ceremonies were welcomed as a celebration of what can be an important and emotional moment in migrant’s lives. Citizenship tests or income/accommodation requirements were criticised by most as discriminatory for new citizens and particularly exclusionary for vulnerable groups.

C. Indicators for policy and project evaluation

Indicators can cover the political opportunity structure, both mainstream (political system) and targeted for immigrants (policies on political participation and access to nationality, i.e. MIPEX), financial and administrative inputs and outputs, and the outcomes of immigrants and nationals.

IMISCOE state of the art report put forward indicators of immigrant participation in public life. It recommends that indicators be:

- Comparable across local, regional, and national contexts (analysis by level and across Europe)
- Inclusive of EU and non-EU nationals, the naturalised and the second and third generation (country of birth of parents and grandparents)
- Compared to nationals (where possible disaggregated by age, gender, education level, socio-economic status)
- Both quantitative (number) and qualitative (satisfaction rate, level of functioning)

Conventional participation

- Voter participation rate
- Party membership rate
- Demographic representation on electoral lists
- Demographic representation in elected offices
- Demographic representation in non-elected leadership positions
- Demographic representation in internal party positions
- Immigrants' political associations
- Immigrant representatives or associations participation rate in consultative bodies on integration

Non-Conventional participation

- Trade union membership rate
- Demographic representation in internal trade union positions
- Immigrants' civic or community associations
- Participation rate in mainstream associations and social movements

To this list could be added an indicator on the "naturalisation rate."

D. Factors that influence the participation of immigrants and the impact of policies

a. Country level: political opportunities at different levels of governance

How immigrants participate politically in a country first and foremost on its “political opportunities structure.” Immigrants are thought to have better political participation outcomes in systems that are generally more open to political outsiders and newcomers (i.e. higher degrees of federalism, decentralisation, proportional voting, and wide coalition governments tend to be more inclusive immigrants’ local participation) (Localmultidem 2009). MIPEX secondary analysis also found that the countries favourable immigrant political participation policies were also those most actively fighting corruption, as measured by the World Bank, and most generous in their welfare policies, as measured by the Expected Benefits Index (Huddleston and Börang 2009).

New comparative research is looking into which level of governance has the greatest impact on immigrants’ political integration. National-level policies may set immigrants’ rights, attitudes and orientations in the political system, whereas local-level policies may have a greater effect on participation rates and the emergence and mobilisation of civil society. For instance, comparative studies have found that a local government’s relations with immigrant organisations directly influenced their level of activism and effectiveness in public life (Fennema and Tillie 2004, Vermeulen 2006, Rudiger and Spencer 2003). The Localmultidem project will provide data and analysis of the significance of the general and targeted political and discursive opportunity structure at different levels of governance in several European countries.

The choice of country of residence emerges as highly determinate of the level of immigrant civic participation. Immigrants, regardless of their ethnic origin, are most civically active in the countries where natives are most civically active (North and Northwest Europe). The immigrant populations that are the least civically active in Europe tend to be found in the countries with the lowest levels of civic participation among natives (Southern and Eastern Europe). Further empirical research can determine whether these findings are a sign of a country’s immigration flows and/or its integration processes. Countries with highly active populations may attract the types of immigrants who tend to be highly active (i.e. with certain social advantages or from certain countries of origin). Another potential explanation of these findings is as an indicator of “successful” integration into given political and social context (Koopmans 2004, Dustmann and Preston 2000). Immigrants living in a specific city or country over time may pick up the same behaviours as nationals and end up participating and trusting as much or as little in public affairs. National-level factors may also affect the behaviour of immigrant organisations. How active an immigrant or anti-racist organisation is at national and European level may be best explained by national factors like the inclusiveness of the citizenship model and the relative influence of the extreme right (Koopmans et al. 2005).

b. Individual level

Factors that influence civic participation are often the same for both immigrants and natives. People will participate more or less in public life depending on their age, education level, homeownership, occupation, and ethnicity. For instance, the ESS analysis showed that immigrants, like non-immigrants, participate more as they become better educated and closer to middle age.

Nevertheless, the same factors that influence the overall population may have a different impact on immigrants. Education, according to POLITIS, may be more important for immigrants, who use their educational achievements as a source of self-confidence and means of recognition by host society civic actors. Gender may be less important if one follows the ESS analysis. This dataset showed that male and female immigrants tended to participate at similar rates. The major reasons for lower participation rates among people born outside the EU may have more to do with their status as an immigrant in the EU and less to do with their status as a man or a woman. However the gender aspect of political participation has not been sufficiently explored in immigration research (Kofman et al. 2000).

Other characteristics are distinctive to immigrants: nationality, immigration status, date of entry, the level of democratisation in the country of origin, and perceptions of racism (Hochschild and Mollenkopf 2009). Proficiency in one of the official languages of the country of residence emerged as a factor that is of particular relevance for immigrant groups compared to majority populations. Language was found to be statistically significant in the analysis of all four JEMS quantitative case studies. Being able to at least speak if not write the country's language was often cited by the POLITIS interviewees as a precondition to taking part, and especially a lead, in its politics and mainstream organisations. Length of residence and acquisition of citizenship were also identified in the ESS analysis. It is not surprising that the longer an immigrant lives in the country, the more he or she will become involved in its public affairs. Yet civic participation also increases when citizenship is granted to immigrants, regardless of how many years they have lived there before. Naturalisation, which is a form of civic participation in itself, removes the legal obstacles to full civic participation and has an important catalysing effect on the integration process (Bratsberg, Ragan, and Nasir 2002, Bueker 2005).

“Soft” factors that influence the civic activation of immigrants were brought to the fore by the POLITIS project's qualitative approach. Those with little education try to compensate by playing on personal strengths such as charisma, leadership skills, and past experience of (and persecution for) civic participation in their country of origin. Both the absence and presence of a personal support network were cited as factors that encouraged them to become civically active. Some primary migrants chose to engage in public life only once they have been reunited with spouses and children and made friends in the community. Others choose to join organisations as newcomers, precisely as a means to develop a social and professional network. Other distinctive characteristics of immigrants, which are often discussed in public debate, actually have an ambiguous impact on their political participation. Immigrants' attitudes and values, their transnational ties, and their experiences of racism may push people into or out of civic and political life in their country of residence.

c. Group level

A person's immigrant group has been highlighted in past empirical studies and reconfirmed in the ESS analysis (Aleksynska 2008). Immigrants with similar personal but different group characteristics may participate to a different extent and in different areas of public life. In ESS, the levels of immigrant civic participation across Europe were highest among Asians and Latin Americans, lowest among citizens of former Communist states, and average for Middle Easterners and Africans.

The relevance of group-level factors can be broken down into the conditions in countries of origin, the relationship between countries of origin and residence, and the experience of migration and settlement in countries of residence. An immigrant group may have experienced forms of civic and political participation in a country of origin with a different political and democratic system to that of their country of residence (Finifter and Finifter 1989). Immigrants, regardless of their individual abilities, are more likely to participate in their country of residence if they settle in countries bordering their home country or with other strong historical, linguistic, or cultural links. There may also be factors common to an immigrant group's experience of migration and settlement (Fennema and Tillie, 1999; Tillie et al. 2002), including reasons for migration (political or not), relative population size (real or perceived), and geographic distribution. These factors may help explain why some groups and not others engage in public life or are engaged by public organisations. The significance of these different individual and group-level factors will be fully analysed by the Localmultidem project.

d. Public opinion

Public opinion might also factor into how immigrants can participate politically in their country of residence. For instance, the general public's acceptance of immigrant candidates for different offices is frequently the subject of national and Eurobarometer polling on non-discrimination and diversity. Public opinion might also be linked to the adoption of political participation policies, as suggested by the MIPEX secondary analysis (Jacobs et al. 2009). Although a country's nationality policies are related to many more historical and cultural factors than whether or not the public supports easy naturalisation, there is a statistically significant correlation between the MIPEX score on political participation and public support for more ethnic diversity among political representatives. The more open the political opportunity structures for political inclusion of third country nationals, the higher the support for the idea that there should be more MPs of a different ethnic origin. Jacobs et al. hypothesise that it is public opinion which pushes policy in a certain direction (either more inclusive or less inclusive), even if they do not exclude the fact changing political opportunity structures may also an impact on public attitudes.

E. Immigrant recommendations to improve civic and political participation

Recommendations emerged from the POLITIS interviewees' answers to the following question; "If you became the political leader of this country, what would be the first action that you would take to address the issue of immigrants' active civic participation?" An immigrant's gender, country of origin, or country of residence did not discernibly affect the type of recommendation they made for improving participation outcomes. The most frequent recommendations were:

- greater opportunities for consultation and political participation
- access to positions of responsibility and representation

The one general pattern across the different recommendations was greater fairness in immigrant matters that brought to an end unjustified differentiations between groups, slow and inefficient bureaucratic procedures, and discriminatory behaviours.

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ANNEXES

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.

Excerpts from 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.

Excerpts from 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.

Excerpts from the 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;